#15681 State v. Ericka Huggins #15844 State v. Bobby G. Seale

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NO. 15681

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

ERICKA HUGGINS

APRIL 20, 1971

NO. 15844

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

BOBBY G. SEALE

APRIL 20, 1971

Before:

HON. HAROLD M. MULVEY, Judge

& Jury (12)

Appearances:

ARNOLD MARKLE

State's Attorney, New Haven County 121 Elm Street

New Haven, Connecticut

CATHERINE G. RORABACK

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New Haven, Connecticut

Representing the defendant Ericka Huggins

CHARLES R. GARRY, ESQ.

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- and -

DAVID ROSEN, ESQ.

865 Chapel Street

New Haven, Connecticut

Representing the defendant Bobby G. Seale

COURT REPORTERS:

Arthur E. Moan, Jr. Walter Rochow David Tilewick

MORNING SESSION Tuesday, April 20, 1971

(The court opened at 10:10 A.M.)

THE COURT: All set, counsel?

All right, Mr. Markle?

MR. MARKLE: If the Court please, the next witness I would offer is Mr. Sams. I understand that there was a preliminary -- I don't understand, I know -- there was a preliminary order entered by your Honor.

THE COURT: All right. Defense counsel, as you recall, made a motion to have Mr. Sams examined. The Court felt it had no authority to order it until Mr. Sams was offered as a witness, but in the meantime Mr. Sams, through his counsel, agreed to the examination. The Court did order it.

The examinations were conducted by Doctor Miller and Doctor Donnelly. I've been in contact with Doctor Miller. I can get him here about 2:00 o'clock this afternoon. I can get Doctor Donnelly here tomorrow morning at 10:00 o'clock. I have to hear those two men first before we proceed with Mr. Sams.

So, I'm going to call the jury in and excuse them, -- I think I'll excuse them until 2:00 o'clock

tomorrow. That would give an opportunity this afternoon for Mr. Miller, and Doctor Donnelly tomorrow. And then we will see what happens.

MISS RORABACK: For the record, your Honor -THE COURT: Counsel?

MISS RORABACK: For the record, your Honor, our motion, as you will remember, was for an examination by a psychiatrist at least designated by us, subject to your Honor's approval. That, as I understand it, was denied and, therefore, I take exception to that.

Secondly, with regard to the examination by

Doctors Miller and Donnelly we, under date of March

24th, addressed a letter to your Honor asking that

Mr. Sams be examined, that the persons making the

examination of Mr. Sams be advised of certain guide
lines, shall we say, as to what the purpose of the

examination was; and also asking that certain actions

be taken by them, and suggesting that certain mater
ials be furnished to them.

I understand from Mr. Rosen that you indicated that you did not accede to this request of ours.

I would like to have it formally on the record that we felt that our request of March 24th, of 1971, should be made a part of the record of this case.

THE COURT: Place it on file, Miss Roraback, place it on file indicating all the material that is sent to the doctors, the same material to each doctor.

MISS RORABACK: May that be marked, your Honor?

MR. ROSEN: I have the materials that were submitted, and I would like them marked.

THE COURT: Are they put together?

MR. ROSEN: They are not clipped. Perhaps they could be clipped so that they could be made --

THE COURT: Why don't you put it in an envelope. Would it be easier in an envelope?

THE CLERK: Yes, your Honor.

THE COURT: And mark them on the outside.

MR. MARKLE: Your Honor, is this the material that was submitted to the doctors?

THE COURT: No. It's something beyond what was submitted.

THE COURT: Because, as far as my office is concerned, I was handed a copy of the letter, what-ever communication was sent to your Honor, long after it had been sent. But I have no knowledge of that -- was this an enclosure?

MR. ROSEN: Yes.

THE COURT: I'm kind of vague on the latter, but I know that I sent all the material, all the records were sent to each doctor. There's a letter in the file there, indicating what was sent, and the doctor will be here and tell you what they received.

MR. MARKLE: Well, needless -- this is just being marked as an exhibit?

THE COURT: That's right.

MR. MARKLE: For identification, or a full exhibit?

THE COURT: I don't know which it is.

MISS RORABACK: A full exhibit.

THE COURT: Well, let it be marked and filed so that it's available to the Court on a review, and that's "Re: Motion for Mental Examination of Mr. Sams." Put that on the outside of the envelope.

(The Court ordered the documents placed in an envelope and marked "Re: Mental Examination of George Sams.")

MISS RORABACK: I assume, your Honor, at some appropriate time we will also be furnished with a copy of the actual letter sent to Doctors Miller and Donnelly?

THE COURT: It's right in the file. You can have the Clerk make copies for you.

There are two letters, one to Doctor Miller and one to Doctor Donnelly. A letter to Doctor Hiller, dated March 25th, 1971, and a letter to Doctor John Donnelly, March 25th, 1971, marked as Nos. 96 and 97 in the Huggins file.

Do you want copies of those, Miss Roraback?
MISS RORABACK: Yes, your Honor.

THE COURT: All right. Mr. Clerk, can you make copies during the recess and make one for each counsel?

THE CLERK: Yes, your Honor.

MISS RORABACK: For the record, your Honor,
I'd like to take an exception to the failure to
furnish to Doctors Miller and Donnelly, materials
which we requested and I understand I'm going that
on behalf of both defendants, your Honor.

THE COURT: All right, exception may be noted.

Anything further, counsel?

MR. MARKLE: No, sir.



THE COURT: All right, I'll call the jury in and explain to them.

Counsel agree, 2:00 o'clock tomorrow?

MR. MARKLE: Yes, sir.

MR. ROSEN: Your Honor --

THE COURT: Would you hold it just a moment, Sheriff. Hold it, yes, wait a minute.

MR. ROSEN: At this point, your Honor, after Mr. Sams has been called as a witness, I would like, on behalf of Mr. Seale, formally to move the Court for permission to have a psychiatrist designated by counsel for Mr. Seale, or jointly, Mr. Seale and Miss Roraback.

THE COURT: Mr. Rosen, all that material was in your motion, and I denied it, and I appointed two doctors.

MR. ROSEN: Yes, sir. I wanted to make the motion after Mr. Sams had been called as a witness. I felt this was the appropriate time.

THE COURT: Make the motion now if you want to make it again.

MR. ROSEN: Well, that's the motion.

THE COURT: Is that the motion?

MR. ROSEN: That is the motion. May I have an exception?

THE COURT: Exception may be noted.

Call the jury.

(The jury entered the courtroom at 10:28 A. M.)

THE COURT: Good morning, ladies and gentlemen.

I trust everyone had a pleasant weekend.

And now I'm going to give you another day off.

We have some matters that, legal matters that I

have to hear some testimony on, and it's going to

take the rest of the day and tomorrow morning. They

are matters that are no concern of yours, it's my

problem, so I'm going to excuse you until 2:00

o'clock tomorrow.

Now, I don't suppose anyone will be too unhappy, with that beautiful weather you have out there today. So, enjoy it, and I'll see you at 2:00 tomorrow. I expect by that time we will be able to move forward.

All right, have a pleasant day.

(The jury was excused at 10:32 the jury was excused until Wednesday, April 21, 1971, at 2:00 o'clock, P. M.)

THE COURT: All right, now, counsel, I take it you're ready to proceed making copies of the tape?

Now, Mr. Reporter, one of you, I couldn't care which one, has to go over and make a transcrip-

tion of this tape.

Who wants to do it?

MR. MARKLE: It's about twenty-five minutes.

THE COURT: It's about twenty-five minutes, is that about the size of it? Ewenty-five minutes to a half hour.

THE REPORTER: We'll draw straws, your Honor.

THE COURT: Where will it be?

MR. MARKLE: We might very well use the court reporters' office. Unless, your Honor, they, this room would be available, I take it?

THE COURT: This room will be available.

MR. MARKLE: Then we will use it here.

MR. GARRY: We'd like to have our clients here.

THE COURT: Well, now, I don't know about that now.

MISS RORABACK: If your Monor please, we do have someone who has been working with us on the preparation of the Sams matter, and I'd like to have --

THE COURT: Counsel --

MISS RORABACK: No --

THE COURT: -- lawyers, reporters, and that's it.

MISS RORABACK: Well, this is the equivalent of

Corporal Scholtz for the defense, your Honor.

MR. MARKLE: I'm only asking him to transcribe it, your Honor, I'm --

THE COURT: All right. One person, Miss Roraback.

MISS RORABACK: Yes.

THE COURT: All right, and that's it.

All right, anything else now, counsel?

MR. MARKLE: No, sir.

THE COURT: Prepare to recess until 2:00 o'clock.

All right, Sheriff, the courtroom will be cleared until counsel finish with their business. Recess until 2:00 o'clock, and I'll be available if counsel need me.

(At 10:35 A. M., a recess was held.)

AFTERNOON SESSION (The court reconvened at 2:11 P. M.)

THE COURT: All right, Doctor Miller.

All set, counsel?

MR. MARKLE: Yes, your Honor.

THE COURT: Doctor Miller, if you would.

B.

MILLER,

of Newtown, Connecticut, having been called as a witness by the Court, was duly sworn and testified as follows:

THE COURT: Doctor, pursuant to the request of this Court, did you conduct some further examination of George Sams?

THE WITNESS: Yes, I did.

THE COURT: And do you have a report with you, Doctor?

THE WITNESS: Yes, I do, sir.

THE COURTS All right.

THE WITNESS: Here's a report and two copies, your Honor. (Indicating)

THE COURT: All right, suppose you hang onto this copy.

All right, Mr. Clerk, would you stamp this. (Indicating)

Counsel, here are copies of the report, and I will give you an opportunity to digest it.

(Indicating)

Pass those out, Mr. Clerk.

(Copies of Doctor Miller's report were handed to all counsel by the Clerk.)

THE COURT: Counsel read the report?

MISS RORABACK: A few more minutes, your Honor.

THE COURT: Surely.

All right, all set, counsel?

All right, Mr. Markle, you may inquire.

MR. MARKLE: If the Court please, under the authority of Holcomb versus Holcomb, which is cited, your Honor, in 28 Connecticut, 177, at 179, cited with approval in 142 Connecticut 630, the Taborsky case, I would ask the Court to accept what the Court said in Holcomb as to what the Court might do with this report, and that is, "The state of a person's mind in this respect may be ascertained by an examination of witnesses acquainted with him, or by a personal examination of him by the court, or by counsel in the presence and under the direction of the court, or by all these modes at the discretion of the court. When the court is satisfied that the person has capacity sufficient to comprehend the nature and obligation of an oath, he may be sworn as a witness."

It's my contention, under the Holcomb case, your Honor, that you ordered this examination, that a competent psychiatrist examined him, and he has now filed a report, and I would move the Court to accept the report and hold the man is competent to testify.

THE COURT: I accepted the report and ordered it filed.

Do you have any questions of this witness?

MR.MARKLE: No, sir.

THE COURT: All right, Miss Roraback.

MISS RORABACK: Mr. Garry will start, your Honor.

CROSS EXAMINATION BY MR. GARRY:

- Q Doctor Miller, how many times have you seen Mr. Sams altogether?
 - A Four.
- Q And you saw him two times prior to February of this year, and you saw him February of this year, and you saw him in April of this year?
 - A That's correct.
- Q Now, do you have any notes with you, that you brought with you?
 - A Yes, I do.

- Q May I see those, please?
- A You may. (Indicating)

I must point out to you the notes which I have here are notes only at the last two examinations. I don't know whether the Court has the other notes in evidence or not, from the previous testimony which I had given, but these are — this is February, and this is April. (Indicating)

- Q You had other notes that you referred to when you testified this past summer?
- A Actually, the notes which I had were notes made by me at the time of my examination, sufficient to refresh me in order to make my report.
 - Q And you think --
- A My principal testimony was based on the substance of the reports, which are obviously very enlarged from the notes.
- And you believe that those notes were taken from you and put in the court file?
- A Unfortunately, I do not recall, but a good deal of what I had with me was taken from me at that time.

MR. GARRY: Well, obviously, if that's true --

THE COURT: Let's see if we can find out.

MR. CLERK: Would you look at your list.

I have a faint recollection what the doctor is suggesting is so. I think that they were offered by Mr. Koskoff.

THE CLERK: As an exhibit or part of the file, your Honor?

THE COURT: As an exhibit.

MR. GARRY: While the Clerk is doing that, may I continue?

THE COURT: Sure, go ahead.

MR. GARRY: There is no sense holding the thing up.

BY MR. GARRY:

Q I wonder, Doctor, -- I have in my hands -- strike that, your Honor.

MR. GARRY: May I put these in for identification at this time so that --

THE COURT: They may be marked for identification.

MR. GARRY: And if we can have the identification for purposes of this hearing, have February 25, 1971, and the other one is April 1, 19 -- yes, there are two, if you will.



THE COURT: 1 and 2 for identification.

February 25, --

MR. GARRY: 1971, and the way I read the other one is February -- April 1, 1967.

BY MR. GARRY:

Q Is this a little reversionary, Doctor?

A It should have been '71. I really don't know what '67 is doing there. However, these are the notes. (Indicating)

- Q Maybe it might have been a Freudian slip?
- A It's quite possible.

MISS RORABACK: May these be marked in both cases?

BY MR. GARRY:

Q I wonder, Doctor, if you could change it and put the date here, '71, so that -- put it underneath it so we know it's April 1, 1971.

MR. GARRY: Defendants' Exhibit No. 2.

THE COURT: All right, marked for identification in both cases, the notes of February 25, '71 and notes of April 1, '71.

MR. GARRY: Yes.

MISS RORABACK: 24th?

MR. ROSEN: 25th.

(The notes referred to were marked as



DEFENDANTS' EXHIBITS 1 and 2 FOR IDENTIFICATION.)
BY MR. GARRY:

Q Now, Doctor Miller, I wonder if you could tell me, and you may use your notes, to what case history, what history did you observe and obtain from Mr. Sams on that date? You may refer to your notes, if you need them.

A I'm not concerned with the notes at the moment. I am trying to understand exactly what you mean by "case history." If you mean in terms of past history, there is nothing which would reflect past history in the notes, but only that aspect of his behavior, and what had been going on, as he reported it, concerning him since the last time I had seen him. The past history is something which had been done -- you mean not only in previous reports which I had made, but in the reports which had been forwarded to me by both Wassaic State School and by the Napanoch Correctional Institute -- again, both of which I know were marked in evidence somewhere in the McLucas trial.

- Q Well, we will try to get all that.
- A Yes.
- Q Now, Doctor Miller, you had not seen Mr. Sams, prior to February 25, 1971, for some year, about a year?
 - A No.
 - Q Ten months?
 - A Since June, I believe, of 1970.

Q 1970. Now, did you check any of his prison records as to his deportment in relationship to his conduct and his general health during that period of time?

MR. MARKLE: If the Court please, I'm going to object.

I don't see the relevancy of this. He testified as to what he did, and your Honor accepted the report.

THE COURT: I will allow it.

MR. MARKLE: Might I have an exception?

THE COURT: Exception may be noted.

THE WITNESS: I obtained information not from prison records, but from the accompanying officers.

BY MR. GARRY:

Q And who would that be?

A One was what I have now learned was a detective from the Public Defender's office, and the other was a Deputy Sheriff.

Q And what did the detective from the Public Defender's office tell you?

A They both said --

Q I want to know one at a time, Doctor, if you don't mind.

A -- "Georgie is doing fine," or words to that effect.

end tk.

BY MR. GARRY:

- Q Nothing more than that?
- A Nothing that was relevant more than that, and certainly nothing which I maintained and recall since it wasn't relevant.
 - O Did you look at his medical chart?
 - A No. I didn't.
- Q Did you find out whether he is still taking any form of sleeping pills or tranquillizers or any other form of medication?

MR. MARKLE: I am going to object to this because I don't see any relevance on his competency. Sleeping pills?

THE COURT: I will allow it. It's crossexamination. This is for the Court.

THE WITNESS: I did find out, and I'm not sure from which of the two gentlemen who brought him, that there had been a period of time when Mr. Sams had been given a tranquillizing medication.

BY MR. GARRY:

- Q Did you find out what that tranquillizing medication was, and the milligrams that was given to him?
- A I found out in the same communication that it was Thorazine. I made no inquiry into the dosage since I did not feel it was relevant.



Q Thorazine is one of our more potent tranquillizers, is it not?

A I don't know whether the word "potent" is accurate.

It is one of our more effective ones, yes.

- Q And did you find out when was the last time that Mr. Sams had received any form of tranquillizers, particularly Thorazine?
 - A I made no inquiry, nor did I consider it relevant.
- Q Did you determine or did you find out whether he had any explosive demonstrations in the past six months since you had seen him?
- A I had found out that he had had -- from him -- that he had been, on one or two occasions, angry about something or other, but no report of anything, "explosive."
- Q You say he had been angry on at least two different occasions?
 - A From what he told me.
 - Q And do you have that in your notes?
 - A No.
 - Q What do your notes say? I can't read them.
- A My notes, as I told you before, were notes to me to refresh myself in those areas which I would use in the report, which I might ordinarily not have retained.
- Q Sut would you read your report so that we will know what it says?

THE COURT Notes.

MR. GARRY: Notes, thank you.

MR. MARKLE: I object to that. They are not in evidence. We are off on the report.

THE COURT: I am going to let him inquire, Mr. Markle.

MR. MARKLE: On the notes?

THE COURT: On the notes.

MR. MARKLE: May I have an exception.

THE COURT: Not to be read.

MR. GARRY: I want him to tell me what it is.

THE COURT: Refresh your recollection, Doctor.

BY MR. GARRY:

Q What do your notes reveal?

A The notes of February reveal that he was still unhappy, that he was playing chess, that he was reading a great many books of a "How-To" nature, and that he had begun to paint and, in fact, had some paintings that had been brought along with him when he came, which he brought to show me.

- Q What else did he do with the paintings that he brought to show you?
 - A He offered me one as a gift.
 - Ω And you took it?
 - A I accepted it and asked him to sign it.

- Q You wanted him to autograph it?
- A Yes.
- Q Did you give him any medical tests?
- A There were none which were germane, in my opinion, at that time.
- Ω My question is, did you give him any medical tests?
 - A No.
- Q And did you, at any time, check the records of Doctor Marks?

A I had originally written to Doctor Marks for his records prior to the last time I gave testimony in relation to Mr. Sams and received no response. I, once again, requested information from Doctor Marks and received notification that he would not release these without a direct request to the Court. I then wrote to this Court, enclosing a copy of Doctor Marks' letter to me, requesting suggestions as to whether I or the Court should properly write to the Court in Michigan, and I have received no response other than the one refusing a report from Doctor Marks.

THE COURT: There is a copy of the doctor's letter in the file, and annexed to it is a copy of the letter from Doctor Marks stating that he would not or could not release his report to this doctor, that it was now the property of the Michigan Court

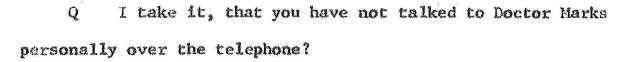


and would have to be obtained from them.

I wrote to — I have forgotten the Judge's name. He gave me the name of the Judge who was in charge out there. I wrote to the Judge special delivery. A copy of the letter is in the file here. I have received no response.

MR. GARRY: Do you recall what date you wrote to the Judge?

THE COURT: About a week or ten days ago. The letters are in the file, all three.



A I have not.

Q Now, you saw Mr. Sams again on April the 1st, 1971, is that right?

A That's correct.

Q Why did you feel that you had to see him again on that day?

A The Court had requested me to.

Q You had seen Mr. Sams prior to the Court requesting you to?

A Yes.

Q Why did you go and see him on February 25th, without the Court asking you to?

A Mr. Sams sent me a Christmas card and it, to me, was quite obviously a plea for help. In view of the fact that he is entitled to compassion, as any other individual is, and in view of the fact that I, myself, was curious about what had transpired with him since I had last seen him, I then made a request of the particular detective who had brought him before and at that particular time — or who had transported me, I should say, and at that time he, apparently, was successful in making arrangements and brought Mr. Sams to my office.

Q Now, you said, Doctor Miller, that Mr. Sams obviously wanted some help. What did he say in connection with the help



that he wanted?

A He did not specifically ask for help. It is the interpretation which I made of the fact that he sent me a Christmas card. No more than that.

Q What did the Christmas card say?

A I really don't know what the printed part of the card was.

Q I am not interested in the printed part. What did he say personally in that card?

A It was one sentence. I really don't remember.
Wishing me a Merry Christmas, with some quasi-religious phrase attached to it, but my interpretation was not from what it said but the fact that it was sent to me.

Q What kind of help do you think he wanted from you?

A Reassurance, perhaps. The fact that I, as an examining physician in the past, had regarded him as a human being and he felt that he could relate to me and, obviously, had a positive relationship with me based on previous examinations.

Q And how much time did you spend with him on February the 25th?

- A About an hour and a half.
- Q What did you talk about?

A Mostly the books and his painting and the fact -my own curiosity coming to the fore -- asked him whether he
was still playing chess, in view of the fact that this had



been an issue at the previous hearing, and it was mostly conversation, which was directed toward making him feel more accepted as a person.

Q And was it at that time that you said to him that you were going to try to get him some help?

A No, no, it was in the April examination that I indicated to him that there was the possibility that he might be eligible for help, but I did not tell him I was going to get it for him.

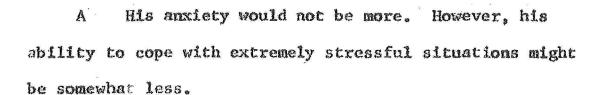
Q What kind of possibility of help did you talk to him about?

A I suggested to him that he might be eligible to be treated as a patient at the new institution here in Connecticut, which is called the Security Treatment Center and is designed for those people who are both offenders and who are possibly rehabilitatable.

Q And you mentioned the fact that he would be treated as a patient. In what way would be be treated as a patient?
What was wrong with him?

A Insecurity, tension and anxiety. The inevitable situational stress which would relate to someone who, as far as I know, is facing a substantial portion of his life in prison.

Q Would his anxiety be any more than any other person similarly situated?



Q So at the behest of the Court, you saw him on April the 1st, 1971?

A That's correct.

Q And when you saw him, you made out some notes, isn't that correct?

A That's correct.

Q And the notes are in two pages. Would you look over the notes and tell us what notations you made?

A I can't, until you give me the two pages.

Q I gave you the wrong pages, didn't I?

A Yes, you did.

Q Would you tell us, Doctor, what you put down, your observations, and what notes you made?

A Yes. When he arrived at my office on the 1st of April, he was somewhat tense and somewhat agitated and was, for the moment, angry with me because his examination by Doctor Donnelly had begun previously, a day or so before, and somehow or other — that is Sams had — Sams had believed that I would be present while he was examined by Doctor Donnelly and whoever else on Doctor Donnelly's staff might have participated in the examination, and he was very uneasy about the fact that he had been examined by a number of people simul-





taneously and that, although I can't give you an exact quote, a number of people simply sat there and looked at him while he was expected to talk, and that when he would give a response, they would look at each other but say nothing, and he was concerned that their looking at each other and saying nothing, somehow or other, had a meaning to him that, perhaps, they were thinking less well of him than he would like to have been thought of and, at that point, since he was somewhat tense, I pointed out that they might have been looking at each other in some surprise at the excellence of his answers, at which he was, quite obviously and palpably, reas-He then went on to talk with me about the fact that he was concerned about the future, and it was at this time that I indicated to him the possibility of a transfer to the Security Treatment Center, were he to be considered eligible. He then asked me whether I would continue to see him, and I pointed out that I was not on the staff of that institution, but that if he were transferred, I would make some effort to see him intermittently, nonetheless. I then asked him what he expected to do at such time as he ever did get out, and he then discussed the fact that he wanted to help others, and that he felt, at this point, based on his reading, based on his own experience and, certainly, based on his desire, that he would be uniquely qualified in this particular situation.

Q And did you gather from what he told you on April 1st

that he felt as though he had bribed you with a picture and he expected you to produce for the bribery that he had handed over to you?

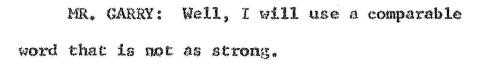
A Well, I forgot to add earlier, that as he was leaving my office, he looked for the picture which he had given me and asked where it was, when he didn't see it, and I told him I had taken it home; whereupon, he asked whether my wife liked it. His having presented me with the picture and my having accepted the picture had to do with his rather naive but immense pride at his achievement, and since it was I who had volunteered the possibility of the Security Treatment Center and since my interpretation of his question about what might happen to him has, I think — well, certainly would exclude any concept that he either had bribed me or was manipulating me. I don't see that this would apply at all.

Q And is it a correct statement to make, Doctor Miller, that by allowing this person that you examined on behalf of the Court to manipulate you into a position where he gave you a bribe, that you no longer would be able to be in a position to be able to properly analyze him?

THE COURT: Wait a minute, Mr. Garry.
Strike the word, "bribe."

MR. GARRY: I didn't hear that.

THE COURT: Strike the word, "bribe," and don't use it again.



THE COURT: Use the word, "gift."

MR. GARRY: A gift.

THE COURT: All right.

A Well, first of all, I don't know what intrinsic value the gift has, but I would not be impressed by it, I can assure you. I felt that the gift, actually, that it would have been an act of cruelty to refuse it. I do not see that he was manipulating, and I did not consider myself manipulated.

Q But he considered that you owed him something, didn't he?

MR. MARKLE: I object. He just answered it, if the Court please. This has been answered twice now.

THE COURT: I will sustain the objection.
By MR. GARRY:

Q Isn't it a fact that he was upset with you and he cussed you out for not being present when Doctor Donnelly examined him?

A He said nothing about, to use your term, cussing me out. He said he was upset and tense. He did not "cuss" me out. He was only resentful that I would have, in some way as a person whom he knew and whom he had begun to trust, was



not there in a situation which was alien and perhaps threatening to him.

- Q What did he say to you and how did he say it?
- A In a querulous fashion --
- Q What kind of a fashion?
- A Querulous.
- Q Would you explain what that word means?
- A You don't know?
- Q I know what it means, but I want to know whether we are on the same wavelength.

MR. MARKLE: I object.

THE COURT: I sustain the objection.

BY MR. GARRY:

Q What do you mean by, "querulous"?

MR. MARKLE: I am going to object. He was answering the question.

THE COURT: Finish your answer.

- A In a querulous fashion, he wanted to know why I wasn't there, because he thought that I was supposed to be there, according to what he believed he had been told.
 - Q What do you mean by, "a querulous fashion"?

 MR. MARKLE: Objection.

THE COURT: Overruled.

1532 follows; no omission.)



end tk.

- A A somewhat uneasy, complaining, questioning fashion.
- Q Was his voice modulated, or was it angry?
- A His voice --
- Q Was it loud?

A His voice frequently got loud, but much more so when he was enthusiastic. I would not describe it as "loud." I would describe, if anything, a slight whine to his tone as I perceived it, but certainly no loudness, gruffness, or anything of that nature.

- Q Who was present when this happened?
- A I beg your pardon?
- Q Who was present when this happened?
- A He and I.
- Q Just the two of you?
- A This is the usual way which I examine patients.
- Q My question is, just the two of you?
- A That's correct.
- O And where was the two detectives?
- A Maiting outside my office.
- Q And how long did this interview take place, on April the 1st?
 - A Again, approximately an hour and a half.
- Q And when he left, you assured him that the doctors probably were admiring his skill of answering questions, is that right?

A No. this is not so.

MR. MARKLE: I'm going to object.

THE COURT: He didn't say that, Mr. Garry. He didn't say that.

BY MR. GARRY:

Q What did you say?

MR MARKLE: I'm going to object, we have been over it.

THE COURT: It's been answered. Sustained.

THE WITHESS: I didn't hear your Honor?

THE COURT: It's been answered. You don't have to answer it.

BY MR. GARRY:

O Doctor, wouldn't it have been good medical practice to have waited until you had heard from Doctor Marks after you received a letter on April the 5th, before you saw Mr. Sams?

A Since — the answer is no, since I had already adequate documented history, in addition to my own previous examinations.

Q In other words, --

MISS RORABACK: Might that answer be read back?
THE COURT: Read it.

(The court reporter complied.)

BY MR. GARRY:

Q Doctor Miller, as Mr. Sams stands right now, with

your examination of April the 1st, 1971, is anything wrong with him psychiatrically at all?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: No, the doctor is here. I'll sustain the objection. The doctor is here to advise the Court as to Mr. Sams' competency to testify; that's the doctor's duty by direction of this Court.

Now, you can inquire in that direction. I'm not interested --

MR. GARRY: My question is guided in that direction. It's the area that I have got to go into --

THE COURT: I'll sustain the objection.

MR. GARRY: - if there is.

BY MR. GARRY:

- Q Well, is he mentally incompetent?
- A No, he is not.
- O Does he have any mental disorders?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Sustained.

BY MR. GARRY:

Q Have you, since your last examination, seen fit to take an electroencephalogram --

MR. MARKLE: I'm going to object.

BY MR. GARRY:

O -- to determine whether there's been any brain damage to this man's head because of the titanium plate that's in his head?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Overrule the objection.

MR. MARKLE: May I have an objection -- an exception?

THE COURT: Exception noted.

You may answer that one.

THE WITNESS: First of all -- excuse me -- if
he had had brain damage, it would have been
sustained from the bullet wound --

BY MR. GARRY:

O Doctor, I don't think --

MR. GARRY: May I have my question read, so he can answer it?

THE COURT: Yes, read the question.

(The court reporter complied.)

THE WITNESS: Well, there are two parts to the answer to that. First, to your immediate question, the answer is "No," I did not see fit to do it.

The other part of it is, that there is now, after I





reviewed the evidence further, there is some question as to whether or not he had the plate in his head or whether it was metal fragments. But it really is not germane.

- Q Well, isn't it a fact that you testified under oath in the previous trial that he did have a titanium plate in his head?
 - A Yes, it is a fact.
 - O Where did you get that information?
- A I accepted Mr. Sams' belief that he had a plate in his head, and answered the question when it was asked of me by Mr. Koskoff. However, as I said, on review, I see no evidence of a plate. And, again, further it is not germane one way or another.
 - What is it that you reviewed to determine that there was no titanium plate in his head?
 - A The record of the fact that he had X-rays reported, which did not show a plate but did show metal fragments.
 - Q And it is your testimony, when you testified at the last hearing -- and you testified twice in court under oath -- that you had not examined those X-rays?
 - A I did not now say that I examined the X-rays either.
- Q Then what is it that you have examined, that you are now able to say that he does not have a titanium plate in his head, but may have some metal fragments?
- A I examined the report of an X-ray which had been submitted in evidence to this court -- or to the Court -- at the time of my previous testimony, which came from the State's Prison or from the Correctional Department, in any

event.

- Q And what have you observed, and what have you examined subsequent to that testimony of yours, that you tell us now that he does not have a titanium plate in his head, but he has a fragment?
 - A What have I observed?
 - Q Yes.

A I have observed that he has no evidence of organic brain damage, other than, as I testified earlier, some deafness in his — I can't remember now, I believe it was his right ear, perhaps it was left. Again, it was only nerve deafness on one side. The metal fragments are not in a position to have caused any particular damage for the future since they are lodged somewhere in his jawbone at the moment.

Purther, the gunshot wound which he sustained was a number of years ago, and had there been any progress in any damage to his brain tissue, it would have been in evidence by the time I did, in fact, perform the necessary neurological tests to make such a determination. The primary test to determine brain damage are essentially psychiatric evaluations, and I did not, on April 1st, or on any previous examination, ever find anything which would indicate brain damage.

Q Doctor Miller, I'm going to again ask you the question: What examination have you made subsequent to your





past testimony for you to determine that he does not have a titanium plate in his head?

MR. MARKLE: Object --

THE WITNESS: None, because none was necessary. BY MR. GARRY:

So that you have not examined any records, or you have not seen any X-rays to determine whether thereis a titanium plate in Mr. Sams' head?

THE COURT: No, no -

MR. MARKLE: I'm going to object.

THE COURT: -- wait a minute. I misunderstood, and I think the doctor did, too. You said, "What examination have you conducted," and I took that to mean of Mr. Sams, and now you're asking something else: What reports, or what documents did you examine? That's something else.

MR. GARRY: Well, let's start from the beginning so that we won't get confused, Judge.

If you are confused, then I don't want the record to be confused.

BY MR. GARRY:

- Q Mr. Sams told you that he had a titanium plate in his head, isn't that right?
 - A He thought he had one, yes.
 - Q He told you that, didn't he?



- A He told me he thought he did.
- Q Where do you have anywhere in your records that says he thought he did? You've heretofore testified that's what he told you he had.

MR. MARKLE: Well, I'm going to object. What he said is, he said he thought. Your Honor, the witness has answered him and he doesn't like the answer.

THE COURT: The doctor is well able to take care of himself, Mr. Markle. I'll overrule the objection.

THE WITHESS: There is nowhere in the records such specific evidence as you --

BY MR. GARRY:

Q Well, do you recall correcting Mr. Koskoff when he asked you the question, when he asked you, isn't it a fact that he had a steel plate in his head? And you corrected him, and you said, Mr. Koskoff, it's not a steel plate, it's a titanium plate?

A That's not my exact words if you are quoting from the testimony. But, on the other hand, I would have done this regardless. Perhaps it was presumptuous of me to correct him, but no one has a steel plate in his head; all metal plates in heads are titanium.

Q You think I'm misquoting you?



A Yes, I do, indeed. You can save yourself the effort, in that you will find that I said "Not steel, titanium"; or simply the word "titanium." But I did not use the exact words which you used. And since you seem to be a precisionist, I thought I would correct you.

THE COURT: Is there some point you're trying to make, Mr. Garry? Mr. Koskoff called it a "steel plate," and he said it's "not a steel plate."

MR. GARRY: Well, he corrected me and said that wasn't what he said, and I just wanted to point to him in the record that's exactly what he said.



BY MR. GARRY:

Q Doctor Miller, you have not talked personally to any treating physician, or to any treating psychiatrist in any of the hospitals or the institutions that Mr. Sams was ever in, have you?

A No, I have not.

Q And you have taken your history directly from Mr. Sams, himself, and no other source?

A That is absolutely untrue.

Q Well, what other source have you taken any history?

A If you had listened earlier, I would remind you that I had incorporated in my report portions of the record from the Wasaic State School and the Napanoch Correctional Institution, in which there are both psychological and psychiatric reports.

Q And what's the necessity of psychological reports, what's the value in psychological reports?

A As germane to what?

Q Germane to your profession.

A They can be of assistance where there is a questionable intelligence, and assuming that one's immediate examination requires further bolstering.

Q Did you give Mr. Sams an intelligence test?

A The intelligence test which I gave Mr. Sams, which was a standard test used during the Joint Armed Porces Induction



period in World War II, was a test primarily to determine the need for further testing, or not.

- Q When did you give him that test?
- A The first time I saw him, which is --
- Q And what was his rating of that test?

The rating on the test was such that it indicated that he was within the realm of normal intelligence, and there was no further need for my getting specific about his exact intelligence quotient, particularly in view of the fact that there had already been on record the fact that when he first went to Wasaic State School his intelligence quotient indicated that he was mentally retarded, or appeared so, and that he was transferred to an institution for so-called defective delinquents, and that he was released from that institution within a year because it became apparent that as soon as he was relieved of some of his -- if you will -socio-cultural deprivation, that at that institution his intelligence was already carefully tested out at 75. State of Connecticut uses the differential point of 70. And in my belief, based on my conversations with him and my examination of him, it was my belief that he tended in excess of that some reasonable degree, and fell within the area of "dull normal."

- Q You told us that you gave him the G.I. IQ test?
- A No. I didn't. I said a test, which had been used



at the Joint Armed Forces Induction Centers.

- Q And what was the rating that he got in that test?
- A "Satisfactory."
- Q Is that the only rating you have, is "satisfactory" and "unsatisfactory"?

A The rating would indicate whether or not he was in need of other testing, or whether he was "satisfactory."

And the test, as I administered it, indicated that he was "satisfactory."

- Q My question, I think, was, you said the only rating that you can have in that particular type of test is "satisfactory" or "unsatisfactory"?
 - A For someone who is past the age of fourteen.
- Q And it is either "satisfactory" or "unsatisfactory," right?
 - A Correct.
- Q And is there a key or a yardstick in which you determine that?

A There is. But I really could not tell you specifically what it is. You would find it incorporated in a handbook of psychiatric examination by Doctor Nolan D.C. Lewis, a standard textbook for the training psychiatrist within the New York State Hospital System, and elsewhere.

Q Did you have the test with you, or do you have that test memorized?

A I have neither the test with me, nor do I have it memorized.

Q And he took the test with you, and he answered those questions, and you rated him?

A That is correct.

Q And did he answer the questions orally, or was this a written test?

A This was wholly oral.

Q And you wrote down the answers, did you?

A I'm not sure how to answer that. I wrote down the grade at the end of each question, since they are graded.

Some of them "1" or "2," and some of them "2" to "4," the appropriate grade for each question as it was answered. And then added up the sum when I was finished.

Q Do you have the papers of your grading in any of your records?

A I do not.

Q What did you do with them?

A I have no idea whether they are somewhere in my desk or, on the other hand whether they, too, are incorporated in the papers from the previous hearing.

Q These seem to be the only things that are in the --

A No.

Q -- evidentiary files. (Showing the witness.) None of these, are they, sir?

A No, these are, I stated, reports from the New York State Institution.

MR. GARRY: And I believe, the Clerk tells me, your Honor, these are the only things that are in his possession from the previous trial.

THE CLERK: The Wasaic report and the Napanoch.

MISS RORABACK: If your Honor please, I just inquired of Mr. -- of the Glerk as to other documents which were introduced at the competency hearing in the last trial, and I understood that those were still upstairs in the Clerk's office.

THE COURT: Well, that's where they'd be.

MISS RORABACK: Yes, that's where they'd be.

THE COURT: In the competency hearing.

You don't have those down here, do you?

THE CLERK: No. I don't.

THE COURT: That's where they'd be, in that envelope.

MR. GARRY: May we see those, your Honor?

THE COURT: I think they are all referred to in the previous reports, all of which you have before you, Mr. Garry, aren't they?

MR. GARRY: I have read the previous report, and what was handed to me this morning.

THE COURT: Will you try to get it?

THE CLERK: Yes, your Honor.



Q By the way, Doctor Miller --

MR. GARRY: May I, your Honor?

THE COURT: Sure, go ahead. The Clerk will be back in a few minutes.

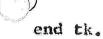
BY MR. GARRY:

Q By the way, Doctor Miller, have you had a consultation with the Doctor Donnelly that's been appointed by the same Court to examine Mr. Sams?

A I spoke with Doctor Donnelly briefly on the telephone, I think, last Tuesday.

- Q My question was: Did you have a consultation --
- A "Consultation," no.
- Q How long did you speak to him last Tuesday briefly over the telephone?
 - A Five minutes, possibly.
- Q Have you seen any written reports, or any documents on his part?

A Have I? No.



(Page 1548 follows; no omission.)

MR. GARRY: I think that, bearing whatever the other documents may have, your Honor, I have no further questions at this time.

THE COURT: All right.

He will be back in a moment, but, for the record, Doctor, I think I'd better get your qualifications down here. They are in the other file, but we have to get them in this one also.

THE WITNESS: Yes.

THE COURT: Your present position, Doctor?

THE WITNESS: I am Superintendent of Fairfield Hills Hospital.

THE COURT: And that is a State hospital for the mentally ill, is that it?

THE WITNESS: Yes, it is, your Honor.

THE COURT: And would you give me your back-ground, Doctor?

THE WITNESS: Graduated from Princeton University, graduated from Loyola University College of Medicine, 1942; became licensed to practice medicine in the State of New Jersey in 1943, and State of New York in 1948, and in the State of Connecticut in 1964.

I became a diplomate of the American Board of Psychiatry and Neurology in 1948; in the Navy, I had various positions up to and including Division Psychiatrist of the Second Marine Division.

While I was in New York, I had positions of responsibility both in running psychiatric services and also in being consultant to psychiatric facilities, and also was Associate in Clinical Neurology at Columbia College of Physicians and Surgeons.

Since arrival in Connecticut in 1964, I became Chief of Professional Services at Connecticut Valley Hospital, and also First Assistant Professor, and then lecturer in psychiatry at Yale University College of Medicine.

I am a member of a substantial number of professional societies, and in 1958 -- I have been made a Fellow of the New York Academy of Medicine.

There are others, but that's about it.

THE COURT: All right.

Thank you, Doctor.

Miss Roraback.

Wait a minute. How did you make out?

THE CLERK: I have them, your Honor.

THE COURT: Mr. Garry.

MR. GARRY: I wonder if we can put these in for identification in this case so that we can refer to them.

THE COURT: All right.

How many are there?

THE CLERK: Three, your Honor.

THE COURT: All right, that will be 3, 4 and 5.

Now, what are they, notes?

MR. GARRY: They are -- I really don't know what you call them.

THE WITNESS: Can I assist you, Mr. Garry?

I could help you in what I predict, in any event.

MR. GARRY: One of them is the prison record of George Sams, as of whatever date

THE COURT: All right, that will be 3.

MISS RORABACK: Connecticut file, your Honor.

MR. GARRY: And the other one is -- what do you call this?

MISS RORABACK: That is the medication.

MR. GARRY: And this is the medication record, and the other one is a Kent Emergency Test.

THE COURT: All right, 3, 4 and 5 in that order.

MISS RORABACK: Both cases, your Honor?

THE COURT: In both cases.

(The documents referred to were marked as DEFENDANTS' EXHIBITS 3, 4 and 5 FOR IDENTIFICATION respectively.)

MR. GARRY: The doctor's notes are still not in any ones we have.

THE COURT: All that material was put in that envelope, was it?

THE CLERK: Yes, your Honor.

I have the list here of the exhibits entered by the Clerk who was at the competency hearing. There are only five entries, and all five are here.

THE COURT: All five are in that envelope?

THE CLERK: Yes, your Honor.

MR. GARRY: I'd rather study these, and if Miss Roraback wants to go ahead with her examination, I can look at them.

Maybe she wants to look at them, too.

THE COURT: All right.

MISS RORABACK: We might avoid duplication if I look at them.

CROSS EXAMINATION BY MISS RORABACK:

- O Doctor Miller, I take it from your prior testimony that since July of last year, when you testified here in this courtroom, you have had two interviews with Mr. Sams?
 - A That's correct.
- Q And you have done, or had done --question withdrawn.

 And since that time, you have had no
 psychological testing done to Mr. Sams?
 - A That's correct.
- Q And since that time, you have had no neurological examinations of Mr. Sams?
 - A That's also correct.
- Q And as I understood your testimony, each of these two interviews with Mr. Sams was approximately an hour and a half in length?
 - A Yes.
- Q During that period of time, did you engage in any attempts to ascertain what sort of as I understand the psychiatric word, I may be wrong, but I think attempts to ascertain Mr. Sams' fantasy life?

MR. MARKLE: I object to this, if the Court please.

I don't know what the relevancy of this is.

If we are going to begin to develop this, it has nothing to do with the competency --



THE COURT: I realize that, but I am going to allow it.

Go ahead.

MR. MARRLE: May I have an exception?
THE COURT: Exception may be noted.

THE WITNESS: Actually, in his discussion of things that he had read, and the one specific question which I asked him about, what he anticipated doing with himself at such time as he were to be released, gave me sufficient evidence of the fact that there was nothing pathological about his fantasy life, beyond the fact that he is inevitably confined and an unhappy man who sees some future in which there will be some self-aggrandizement. However, I must state what Mr. Markle mentioned in his objection, that there was nothing related to fantasy life which would have been germane to his competence.

BY MISS RORABACK:

- Q You are talking about -- I believe you said "self-aggrandizement"?
- A Well, perhaps -- and I used that word, that it may not have been as succinct or appropriate as you would want it.
 - Q No.
- A This is a young man who was inadequate and who would like to see himself more adequate.



O So that in his fantasy, he might try to dream himself as being more adequate than he actually is?

A Not dream himself, but dream of sometime when he might become so.

Q And did you attempt to explore whether, in fact, in terms of his recounting of past events, he might tend to engage in self-aggrandizement or picture himself as something more than he actually had been?

MR. MARKLE: Objection, if the Court please.

THE COURT: I will sustain that objection.

I think the doctor explained that what he meant, he was talking about obtaining something in the future.

MISS RORABACK: I asked if he had done it in connection with the past, your Honor.

THE COURT: Sustain the objection.

Note an exception.

MISS RORABACK: Exception.

THE COURT: Exception may be noted.

BY MISS RORABACK:

Q Let me ask you this, Doctor Miller: Would you feel that his need, if you will, or whatever way you would like to express it, to project some form of self-aggrandizement — would you feel that that might also color his memory of events and his picture of the way things had actually happened?





- A I suppose this would inevitably, to a minimal extent. However, no more than within reasonable limits. I would say that his need for this type of self-aggrandizement did not approach pathological levels.
- Q Well, did you attempt to explore, Doctor Miller, just how accurate his description of past events was?

MR.MARKLE: I object, if the Court please.

THE COURT: I will allow it.

NR MARKLE: May I have an exception?

THE COURT: Exception.

THE WITNESS: I compared things which he had told me to things which had already been entered into records of the institutions in which he had been confined and used this as a sort of yardstick.

Beyond this, no, I would not be capable of conducting such an exploration.

BY MISS RORABACK:

- Q As I understand it, Doctor, you were not present here in the courtroom when Mr. Sams testified himself, were you?
 - A No, I was not.
 - Q And have you ever read any of his testimony?
 - A No. I have not.
- Q Have you ever read any of the statements which he has given to various law enforcement persons?

- A No, I have not.
- Q Would you say, Doctor Miller, that Mr. Sams has feelings as to his past inadequacies?

MR. MARKLE: I am going to object, if the Court pleases.

THE COURT: You are getting way off, Miss Roraback.

I am going to sustain the objection.

BY MISS RORABACK:

O Let me ask it in a slightly different way,

Doctor Miller. Would you say that an individual who has

feelings of inadequacies would tend, in his description of

the action of others, to reflect his own feelings of

inadequacy in this description?

THE COURT: Sustained.

MR. MARKLE: I object.

MISS RORABACK: May an exception be noted, your Honor?

THE COURT: Exception may be noted.

BY MISS RORABACK:

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Q Doctor Miller, in the course of your interviews and consultations with Mr. Sams, did you, at any time, explore with him the question of his relations with women?

MR. MARKLE: I'm going to object to this, if the Court please.

THE COURT: Sustained.

MISS RORABACK: Exception, your Honor.

THE COURT: Exception noted.

BY MISS RORABACK:

Q Did you ever explore with him, Doctor Miller, what his attitudes towards women were?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

MISS RORABACK: I will claim this, your Honor, quite specifically with regard to my client and the question of competency of Mr. Sams to make -- to engage in any testimony --

THE COURT: I sustained the objection.

Take an exception.

MISS RORABACK: I'm trying to just get it on the record, your Honor, what the basis of my question is.

BY MISS RORABACK:

O Did you explore - "explore" is the incorrect word, Doctor.

Did you attempt to ascertain, in the course of your interviews with Mr. Sams, his respect for the testimonial oath?

MR. MARKLE: I'm going to object.

THE COURT: I didn't hear the end of it. You dropped your voice, Miss Roraback.

Just the last four or five words.

MISS RORABACK: What his respect was for a testimonial oath, your Honor.

THE COURT: Read it, Mr. Reporter, please.

(The last answer of the witness was read by the court reporter.)



THE COURT: I'll let it be answered.

Overruled.

You may answer it, Doctor.

THE WITNESS: I did not explicitly explore that particular point, but in the course of the several interviews I had and, in fact, evident from the very first, was an indication that whereas quite obviously Mr. Sams had been in anti-social activities, that he nevertheless is quite fearful of and respectful of the Court and certainly of a testimonial oath.

BY MISS RORABACK:

- Q And you say "fearful of the Court." Is that your word?
- A Of the -- yes, I used that word, and -- yes, I meant it.
- Q In what way, can you tell me; how did he exhibit this?
- nature in the past, it was quite apparent that for some time he has always been respectful of authority, in terms of duly-constituted authority. I am not talking about the police, but rather a Judge, attorneys of the court, the whole respect and dignity of the court, and that by the same token, in his own way, he very much wants to do what is right, even

if this has not been apparent from previous explosive behavior.

MISS RORABACK: I have no other questions.

THE COURT: Do you have any other questions,

Mr. Garry?

MR. GARRY: Yes, I do, your Honor.

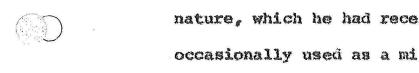
RECROSS EXAMINATION BY MR. GARRY:

- Q Doctor Miller, I want to show you here Defendants' Exhibit No. 4 for Identification and ask you to look in there, that is the medical medication of Mr. Sams up to the time that you testified in court the last time, this past swamer. (Indicating)
 - A Yes.
 - Q What is the date of the last medical entry?
 - A I haven't come to it yet.

The last entry I see here is the 10th of July, 1970, 9:00 P. M.

Q All right. Now, Doctor, would you be kind enough to look in the medical medication chart there and tell me if there is any indication of any Thorazine being given to Mr. Sams up to that period of time, from the time that he first --

A I don't have to look. I was presented with this same evidence in the past, and the only medication of that



nature, which he had received in the past, was something occasionally used as a mild tranquillizer, Librium and Darvon, which is sometimes a pain-killer, and I think one or two times when he received Phenobarbital.

All right. Now, since July of 1970, up until the Q time that you saw him last on October 1st, from what you observed, the information that you gathered, he has had to use Thorazine, is that right?

> MR.MARKLE: I'm going to object, -THE WITHESS: No.

MR. MARKLE: -- if the Court please.

THE COURT: It's been answered.

He said "No."

I'll let it stand.

THE WITHESS: What I said was that he had been given it. This does not necessarily mean that he had to have it.

This is a matter which is entirely within the right and opinion of a prescribing physician, and each physician inevitably has certain medications which he prefers to use in obvious preference to others.

BY MR. GARRY:

Am I correct, or am I not, or am I assuming correctly, that since you testified last, and since those medical records



of July of 1970, someone thought that he should have Thorazine from that time until July 1st -- I mean April 1, 1971?

MR.MARKLE: I am going to object, your Honor. We have been through it.

THE COURT: Wait a minute. Wait a minute.

I don't think the doctor said that.

Your question would seem to indicate that he has had Thorazine constantly from July until the date the doctor --

MR. GARRY: I didn't say the amount, Judge.
I said --

THE COURT: Well, your question implied that.

That's what I am pointing out.

Rephrase it, and I will allow it.

MR. GARRY: I'll be very happy to.



BY MR. GARRY:

Q Who told you he was given Thorazine?

MR. MARKLE: If the Court please, I am going to object, because we have been through it.

THE COURT: I will allow it.

MR. MARKLE: May I have an exception?

THE COURT: Overruled.

Exception may be noted.

THE WITNESS: Either the Detective or the Deputy Sheriff who accompanied him.

BY MR. GARRY:

Q And that was something that has been given since
July of 1970 up until sometime during the period of time when
you saw him in April of 1971?

A Yes, that is correct.

Q And you do not know how much Thorazine had been given, from your previous testimony you gave this afternoon?

A That is also correct.

Q And you don't know how often that Thorazine was given?

A That is also correct.

MR. GARRY: I have no further questions.

THE COURT: Miss Roraback, anything further?

MISS RORABACK: I'm sorry, no, I have no other questions.

THE COURT: Do you have any questions, Mr. Markle?

MR. MARKLE: No, your Honor.

THE COURT: Doctor, you may step down.

Just let me check and make sure we have everything here that we are supposed to.

THE WITNESS: I have an empty envelope at this point.

THE COURT: Do you have a copy of your report?

THE WITNESS: Well, there would be one in my

office file. I gave the stenotypist one.

THE COURT: All right, you may step down, Doctor.

THE COURT: Thank you, your Honor.

(The witness was excused.)

THE COURT: All right.

Now, Mr. Clerk, would you try to get these various things back in the proper envelopes.

THE CLERK: Yes, your Honor.

THE COURT: Do you have any of those letters or things on your desk?

How about that letter right in front there, directly in front of you; that belongs to -- all right.

All right, counsel, Doctor Donnelly will be

here in the morning at 10:00, so he promised me.

Prepare to adjourn court for the day.

MR. GARRY: If, by any chance, we can get the report earlier --

THE COURT: He is bringing it down with him.

MR. GARRY: He is bringing it with him?

THE COURT: That's why he couldn't be here today.

So, when he gets here, I will try to get the report from him right away and have copies made and get them to counsel.

MR. GARRY: Very good.

THE COURT: So, if you'll be here, say, twenty minutes to ten, I will get it to you as soon as I can, and then give you an opportunity to read it before.

MR. GARRY: I don't like to waste the Court's time.

THE COURT: All right.

Don't worry about wasting the Court's time, I have plenty of it.

So, we will prepare to adjourn court for the day.

Adjourn court, Sheriff, until tomorrow morning at 10:00 o'clock.

(The court adjourned at 3:45 P.M.)

<u>W I T N E S S E S</u>

Name	Direct	Cross	Redirect	Recross
**	141			
ROBERT B. MILLER	*	* 4		
(By Mr. Garry) (By Miss Roraback)	e ej	1513 1552		1560

EXHIBITS FOR THE DEFENSE

$\overline{\text{NO}}$.	DESCRIPTION	FOR IDENT.	IN EVID.
1	Notes of February 25, 1971	1516	
2	Notes of April 1, 1971	1516	
3	Prison Record of George Sams	1550	
ě	Medication Record	1550	
5	Kent Emergency Test	1530	

15681 NO.

STATE OF CONNECTICUT

SUPERIOR COURT

VS.

NEW HAVEN COUNTY

ERICKA HUGGINS

APRIL 21, 1971

NO. 15844

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

BOBBY G. SEALE

APRIL 21, 1971

Before:

HON. HAROLD M. MULVEY, Judge

Jury (12)

Appearances:

ARNOLD MARKLE

State's Attorney, New Haven County 121 Elm Street

New Haven, Connecticut

CATHERINE G. RORABACK

129 Church Street

New Haven, Connecticut

Representing the defendant

Ericka Huggins

CHARLES R. GARRY, ESQ.

341 Market Street

San Francisco, California

- and -

DAVID ROSEN, ESQ.

865 Chapel Street

New Haven, Connecticut

Representing the defendant

Bobby G. Seale

COURT REPORTERS:

Arthur E. Moan, Jr.

Walter Rochow

David Tilewick

MORNING SESSION

Wednesday, April 21, 1971

(The court opened at 10:03 A.M.)

MR. GARRY: I haven't finished reading this yet.

THE COURT: All right.

I never did get a copy to you, Mr. Markle. I was having it made.

Would you pass this to Mr. Markle. They were being made upstairs.

MR. MARKLE: Thank you, your Honor.

THE COURT: Counsel?

MISS RORABACK: I'm getting disconcerted by the noise downstairs.

MR. MARKLE: The State is ready.

THE COURT: How about you, Mr. Garry?

MR. GARRY: I am almost finished, but I want a short conference with Miss Roraback.

THE COURT: Let me know when you are ready.

She is right next to you.

MR. GARRY: Could we go outside for about five minutes, your Honor?

THE COURT: All right.

(Mr. Garry, Mr. Rosen and Miss Roraback left the courtroom at 10:19 A.M.)



MR. MARKLE: May I step out for a moment, your Honor?

THE COURT: Yes.

(Mr. Markle left the courtroom at 10:20 A.M.)

(Mr. Markle returned to the courtroom at 10:23 A.M.)

(Mr. Garry, Mr. Rosen and Miss Roraback returned to the courtroom at 10:25 A.M.)

MR. GARRY: Ready, your Honor.

THE COURT: All right, Doctor Donnelly, take the stand.



JOHN

DONNELLY.

of 14 Ledyard Road, West Hartford, Connecticut, having been called as a witness by the Court, was duly sworn and testified as follows:

THE COURT: Doctor Donnelly, pursuant to the request of this Court, did you conduct an examination of George Sams, Jr., to determine his competency to testify?

THE WITNESS: Yes, sir, your Honor.

THE COURT: Do you have a report, Doctor?

THE WITNESS: I have a report with me.

THE COURT: May I have it?

(The witness handed a document to the Court.)

THE COURT: Would you mark it, Mr. Clerk, please.

All right, all counsel have been furnished copies of the report and have read it?

MR. MARKLE: Yes, your Honor.

MISS RORABACK: Yes.

THE COURT: All right, Mr. Markle, you care to ask the doctor any questions?

MR. MARKLE: No, sir.

I move the Court accept the report.

THE COURT: Miss Roraback.

MISS RORABACK: Mr. Garry will, your Honor, --

CROSS-EXAMINATION BY MR. GARRY:

Q Doctor Donnelly, I just have a few questions to ask you.

A Yes, sir.

Q I believe you stated that you spent some seven or eight hours with the subject?

A Yes, sir.

Q And you drew certain conclusions, --

A Yes, sir.

Q -- from your own experience?

A (No response.)

Q Can we go into a little bit about your background.

I understand --

A My background?

Q I think it's quite extensive, but, for the record, let's have it. Don't be modest.

A It's several pages long, sir. (Indicating)

Q We've got the time to listen.

THE COURT: Go ahead, Doctor, begin at the beginning.

MR. MARKLE: Can we stipulate, your Honor.

THE COURT: No. No, let's go through it.

(Page 1573 follows; no omission.)



THE WITNESS: All right. I am John Donnelly.

I live at 14 Ledyard Road, West Hartford,

Connecticut.

My professional experience: I received my medical degree at the University of Liverpool in 1938. I was certified with a diploma in psychological medicine of the Royal Colleges of Physicians & Surgeons, England, in 1948. Certified in Psychiatry by the American Board of Neurology and Psychiatry, 1952. Certified by the American Psychiatric Association as a Mental Hospital Administrator in 1956. Postgraduate Training Program, Psychiatric Institute, University of London, 1947.

BY MR. GARRY:

Q Speak a little louder, Doctor.

A I came to the Institute of Living in September, 1949 and have remained there since, and I have occupied a variety of positions, including Chief of Service, Clinical Director, Executive Officer, Medical Director, and I am presently Psychiatrist-in-Chief, since 1965.

With regard to teaching, in addition to my teaching responsibilities at the Institute of Living, I was Assistant Clinical Professor of Psychiatry at Yale University Medical School from 1952 to 1964, and Associate Clinical



Professor from 1964 to 1968, and presently am Lecturer there in the Department of Psychiatry.

American Psychiatric Association, a Fellow of the Royal Society of Medicine, England, Royal Medico-Psychological Association of England, Fellow of the American College of Physicians, a member of the Association for Research in Nervous and Mental Diseases, a member of the American Medical Association, New York Academy of Science, Connecticut State Medical Society, Hartford County Medical Association, Hartford Medical Society, New England Society of Psychiatry, Connecticut Public Health Association, Connecticut District Branch of the American Psychiatric Association, a member of the Group for the Advancement of Psychiatry, a Fellow of the American Association for the Advancement of Science, a member of the New York Psychiatric Society, and a member of the World Psychiatric Association.

I passed appointments in the American

Psychiatric Association, which includes being a member of
the Council on Internal Organization from 1967 to 1969. I

was a member of the Council of the American Psychiatric

Association from 1962 to 1965, and a member of the Executive

Committee of that Council from 1964 to 1965.

I have served on a number of committees: Committee on Psychiatric Social Work, 1953 to 1956. I have been a member of the Editorial Board of the Hospital and Community Psychiatry, a journal published by the American Psychiatric Association, since 1969. I am presently a member and Chairman of the Commission on Recognition of Psychiatric Personnel, having been a member since 1969. I served on the scientific program of the American Psychiatric Association as a member from 1956 to 1957, as Vice-Chairman from 1957 to 1958, and as Chairman from 1958 to 1962.

I served as a member of the Ethics Committee of the American Psychiatric Association from 1965 to 1967, with the section on Legal Aspects of Psychiatry, I served as Secretary from 1958 to 1959, Vice-Chairman from 1959 to 1960, and as Chairman from 1960 to 1961.



A I have served as President of the Connecticut District Branch of the American Psychiatric Association, President, 1956-1957, and as a member of the Executive Council for that district branch from 1956 to 1958, and again in 1960.

I served as Delegate and Alternate Delegate from the Connecticut District Branch to the National Assembly of District Branches of the American Psychiatric Association.

I am a member of the Council on Mental Health since 1966, of the American -- I beg your pardon. I am a member of the Council on Mental Health of the American Medical Association since 1966, and a member of the Executive Committee of that Council since 1967, and presently am Vice-Chairman of the Council on Mental Health of the American Medical Association. I am a member of the Committee on Alcoholism and Drug Dependence, 1968; that is, of the American Medical Association.

With regard to Group for the Advancement of Psychiatry, I have been a member of that organization since 1957, a member of the Committee on Psychiatry and Law. I was Vice-President of that organization from 1967 to 1969. I have served as President from 1969 to 1971.

With the American Hospital Association, I am a member of the Governing Council of the Psychiatric Hospital Section since the beginning of this year. I am a member of the Board of Trustees of the National Association of Private Psychiatric Hospitals. I was a member of the Executive Commit-



tee of the Joint Information Service of the American Psychiatric Association and the National Association for Mental Health from 1963 to 1967, and was Chairman of that Executive Committee in 1967.

I served on a variety of other organizations with regard to the Connecticut State Medical Society. I am presently Chairman of the Committee on Mental Health. I've served on that Committee since 1957; served as a member of the Committee on Aging from 1958 to 1966, and as Chairman from 1958 to 1962. I was a committee member -- I was a member of the Committee on Industrial Health from 1956 to 1957.

I am a member of the Hartford Medical Society, and I am a Trustee of that organization since 1970.

In the Board of Mental Health of the State of Connecticut, I was appointed in 1957, and I am still a member, and served as Vice-Chairman of that Board of Mental Health from 1961 to 1963, and as Chairman of the Board from 1963 to 1967.

With regard to the Connecticut State Advisory

Council for Mental Health Planning, I have been a member

since 1964, and a member of the Executive Committee since
that time.

I have served on the Connecticut Association for Mental Health, the Advisory Committee to Industry in 1954, a member of the Hospital Services Committee, 1956 to 1957,



and Chairman of the Committee on Research from 1957 to 1959.

I served as a member of the Board of Directors of the Connecticut Public Health Association from 1964 to 1968, and I served as Chairman of the Connecticut State Joint Council to Improve the Health Care of the Aged from 1959 to 1962, and as a member of the Council on Professional Practice of the Connecticut Hospital Association from 1958 to 1961.

I am a member of the Board of Directors of the Connecticut Hospital Planning Commission, having been a member since 1965. I was a member of the Fact Finding and Review Committee from 1966 to 1970, a member of the Planning and Development Committee, appointed to that this year, and I am a member of the Connecticut Council on Crime and Delinquency since 1966.

With regard to the Greater Hartford Community Council, I served on a number of positions; in 1954 to 1957, a member of the Committee on Preventive and Protective Services; a member of the Committee on Interpretation of Professional Social Work from 1955 to 1956; a member of the Committee on Adoptions, Family and Child Welfare Division, 1955-1956; and a member of the Advisory Committee to Long Range Planning Committee, from 1961 to 1964.



I served as a member of the Greater Hartford Community Chest, Board of Directors, from 1960 to 1966. I am a member of the Connecticut State Comprehensive Health Planning Council since 1968, serving as a member of the Commission on Aims and Priorities since that date. I was a member on the Health Manpower since 1970.

Do you want me to go on? These are just various -- I would be willing to.

- Q Whatever you feel is part of your biography.
- A Beg your pardon?
- Q Whatever you feel is part of your biography. I would just as soon have it in the record.
 - A Oh. I will take just some.
- Q If it doesn't embarrass you. It doesn't embarrass me. I respect you for it.
 - A It doesn't embarrass me.

Consultative Committee, 1968, Joint Commission on Accreditation of Hospitals. I served as a member of the Professional Advisory Committee of the Hartley-Salmon Clinic, which is a child's clinic in Hartford, from 1953 to 1957; a member of the Board of Directors of the Housatonic Psychiatric Center, which started as a child guidance clinic, and now is a general purpose psychiatric clinic, from 1954 to 1957, as a member of the Medical Advisory Committee from 1957 -- seven years; as a

member of the Medical Advisory Committee of Gaylord Farms
Sanitorium from 1953 to 1955, and a member of the Research
Committee from 1957 to 1959.

I am a consultant in Psychiatry at the Windham

Community Memorial Hospital in Willimantic, Connecticut; a

member of the consulting staff, Department of Psychiatry,

in Hartford Hospital, and in St. Francis Hospital, Consultant

in Neurology and Psychiatry.

I am also Editor of the Digest of Neurology and Psychiatry, which is a publication produced every month, for ten months a year, by the Institute of Living.

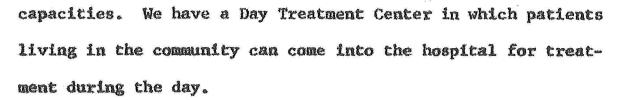
I would offer that as my background.

Q It's very impressive, Doctor.

Could you tell us what the Institute of Living is that you are in charge of?

A Yes, sir. The Institute of Living is a private non-profit psychiatric hospital chartered originally under the auspices of the Connecticut State Medical Society in 1822. It treats psychiatric illnesses of all kinds. It's in-patient bed capacity is 413. It has two out-patient clinics, one for adults and one for children, which are for indigent persons only. We run -- we have about 60 psysicians on the staff, we have ten or twelve -- ten, perhaps, psychologists, and approximately the same number of social workers. We have about 70 nurses. We have, in all, about 800 employees in various





It's accredited by the Joint Commission on Accreditation of Hospitals. It's recognized as a training center accredited for three years -- approved for three years in training psychiatry by the Council on Education of the American Medical Association, and licensed, of course, by the State of Connecticut, by the Department of Mental Health.

We run extensive research programs of a variety of kinds. We are an extensive teaching center. In addition to the three years approval for training in general psychiatry, we are approved for two years of training in child psychiatry. We teach student marses from about ten or twelve different nursing schools in the New England area, who come to the Institute for their training in psychiatric nursing. We are approved for training of psychological interns. We have students from social work schools who do the field work with us. We have a secondary school on the grounds which we operate for a diploma, as a high school really. We are extensively involved in many community activities by consultation, participation, service on committees, boards, et cetera.

In other words, it's a rather extensive teaching research treatment center.

Q What type of persons come there, from what walks of

life, would you tell us?

A They come from --

MR. MARKLE: If your Honor please, --

THE WITNESS: Pardon?

MR. MARKLE: Excuse me.

THE WITNESS: They come from all walks of life, ranging from those who are very wealthy to those on Aid to Dependent Children.





Q Now, Doctor, you examined Mr. Sams, and you have made a comprehensive report here, which the Court has admitted into evidence --

MR. GARRY: Is that right, your Honor?

THE COURT: No, filed.

MR. GARRY: Filed with the Court?

THE COURT: With the file.

BY MR. GARRY:

Q Now, did you have some neurological tests made with Mr. Sams?

- A I did those.
- Q I beg your pardon?
- A I had carried out the neurological tests mentioned here. I did that.
 - Q You had them done?
 - A I did that myself.
 - Q You did it yourself?
 - A Yes.
 - And was anything remarkable in any of those tests?
- A From a clinical point of view, the two main factors were the intense reaction, reactivity of the reflexes was the main one; and the second was an indication of some impairment of the auditory branch of the eighth cranial nerve. In other words, he had impaired hearing.
 - Q And was there anything significant about his acute

reaction on his reflexes?

A Well, what it indicated to me was confirmation of the type of personality that he was, that he was reacting psyiologically as he does psychologically.

Q I see. Now, did you determine what kind of a medication he has been taking, say, in the past six months?

A I asked him what types of medication he had, and he told me he had had medication at night, essentially for relaxing him and sleeping. He stated that he had difficulty in sleeping at times. I understand from some of the records that I had had, that earlier, up to December, 1970, I think it is, that he had had odd —

O He had what?

A He had sort of individual dosages of some kind of medication, or other.

Q What you are referring to is, you're referring to Defendants' Exhibit 4 that I'm handing to you there (handing to the witness)?

A I did not see this. You asked me about the last six months. There's not very much here about the last six months.

Q Not very much about the last six months. I believe it stops sometime in July or August?

A Yes.

Q Did you determine what medication, if any, in the



way of tranquillizers he's been taking in the past six months?

A I asked him that question, and I understood he was not on any regular tranquillizing medication.

MR. MARKLE: I'm going to object, if the Court please. Now, the question the doctor asked the patient was whether or not he had been on any regular medication, and he said "No."

THE COURT: Well, the only information I know about Thorazine, is that Doctor Miller said that one of the two people who escorted Mr. Sams to his office said he thought he was on Thorazine. Isn't that what Doctor Miller said?

And your question is, did Mr. Sams say anything about Thorazine?

MR. GARRY: I think it's a fair question.

THE WITNESS: No, sir, not in the last six months certainly.

BY MR. GARRY:

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- Q And did you ask him if he was taking any type of tranquillizers?
- A I discussed what type of medication he had been on. I did not ask him specifically with regard to the last six months or so, and it was my impression he had been on

Librium, and I think also had medication for headache, headaches.

And he also told you that he had kind of a claustrophobia in jail, he didn't use the word "claustrophobia" but that's what he meant?

A No, sir. He stated that when he was locked up at night, he had a great deal of "closed-in" feeling about that, which would correspond to a claustrophic feeling.

Q Now, did you, in your examintion of Mr. Sams, did you determine whether he was capable of manipulation?

MR. MARKLE: I'm going to object.

THE WITNESS: I would have to have that explained. I wouldn't -- see, to me --

THE COURT: I don't know what he means, and the doctor doesn't, either. So why don't you -
MR. GARRY: I'll be very happy to.



BY MR. GARRY:

Q Do you believe that he's the type of a person that can manipulate people to a point where he will project what-ever viewpoints he has, whatever objectives that he has in order to be able to be devious and to create situations where he will be fully acceptable?

MR. MARKLE: I'm going to object to that, if the Court please.

THE COURT: Sustain the objection. That's not the inquiry here, Mr. Garry.

MR. GARRY: Well, I'll come at it in another way, because I want to go into some of the doctor's conclusions.

BY MR. GARRY:

Q I believe you stated that he was truthful to you, at least you felt he was truthful to you on all but two areas of his discussions and examination with you, is that right?

A No, sir. I think you're referring to a statement there which is near the conclusion, which I stated, he appeared to be honest.

Q He appeared to be -- what?

A He appeared to be honest. In other words, what I meant by that, he was answering the questions immediately, spontaneously, and not sort of taking time to answer them



to make up answers.

- O I was referring particularly to Page 8 of your report, Doctor Donnelly, and you state that he "appeared to be honest in his answers."
 - A Yes.
- O "Only on one or two occasions he evaded direct questions."
 - A Right.
 - Q What were those one or two occasions?
- A I asked him about his activities in Detroit at the time of the riot.
 - O At the time of what?
 - A The riots there.
 - Q And he evaded your --
 - A He invaded my answer (Sic), yes.
- Q And did you get any information that -- strike that.

 I believe he told you in some of his history that
 you got from him that he had been involved in some acts of
 - A Well, I'm not quite clear what you mean, sir.
- Q Well, did he tell you that he had been involved in some acts of violence?
 - A You mean throughout his life?
 - Q Yes.

violence?

A Yes, sir.





And did he tell you that he continued with those acts of violence even after the events here on May the 19th, 1969?

MR. MARKLE: Now, I'm going to object, if the Court please.

THE COURT: Sustained.

MR. GARRY: Take an exception to that, your Honor.

THE COURT: Exception may be noted.

MISS RORABACK: On behalf of both?

THE COURT: On behalf of both.

BY MR. GARRY:

- Q Now, I believe he also, he did tell you, did he not, that he had been to Cuba? Page 6, I believe.
 - A Yes, sir.
 - Q Doctor?
 - A Yes.
 - Q He told you that?
 - A He told me that.
 - Q Did he say what he did in Cuba?
- A Well, I did not pursue it in any detail. I understood that he went there in terms of some kind of training program.
 - Q Did he say who he went there with?
 - A No, he did not say. He stated that he stayed about

two months, as I recall it now.

- Q Can we go over your summary, Doctor, because I want to ask you a few questions about that.
 - A Surely.
- Q I believe you state that Mr. Sams was a man with a very poor education, that he has within the dull normal in his range of the population?
 - A Yes, sir,
- And you attribute some of that to the fact of somewhat limited literacy, and being able to cope with the language that we use?
- A Well, not just language, sir. It's -- if I may explain?

Q Sure, of course.

Psychological tests have been developed as a result A of testing out, giving certain types of problems, verbal problems, mathematical problems, little tasks to do like matching shapes, and different things like that. There's a series of, groups of testing. These have been tested out, of course, basically upon the general population; they have been tested out over the years increasingly, of course. It has become quite clear through the years that much of the ability to do some of these tests relates to formal education, and some of it relates to the environment, the type of intellectual stimulus, the stimulus he gets, the individual grows up in. It's not just the language itself, or the words themselves, although obviously one does test out his capacity to understand words at increasing levels of difficulty. So it's more than just the spelling, this is what I mean.

Q And you came to the conclusion that he had a level of about "81"?

A On formal testing it came to "81."

Q On formal testing. And you thought that, in your opinion, on an intelligence level he was a little higher than that?

A I think he has the potential probably of maybe "85," maybe higher.

Q I see.

- A That's --
- Q Now --
- A Yes.
- Q You're familiar with the fact that he had a rating at one time of "64"?
 - A Yes, sir.
- Q And that is a rating of what the standards show to be a moron?
 - A Yes, sir.
- Q And you also said in your summary that he's an individual with very little self-esteem arising out of feelings of rejection for a major part of his life starting in infancy. What do you mean by that, Doctor?

A He is an individual who, at the beginning of his life he was adopted because he was, apparently, abandoned by his parents. And he was sickly for two years, as I understand it, sickly for two years. He moved up from Alabama to New York City in 19 -- I have the year here -- 1958, was it? -- when he was about twelve, '58, '58 or early '59. And at that time he moved into a different culture as far as he was concerned. It was apparently the ghetto area of New York City. There he met the reception which most children meet when they go into a new area, and apparently suffered physical and verbal abuse, and as such, of course, was not accepted by his peers. I gather that the first year or so, he was a timid individual





who'd run home for safety. I think that those very early experiences in his life were quite formative in terms of his personality.

Q And I believe you continued with this in your summary, in the same paragraph, "He attempts to compensate for his intellectual deficit and his poor self-image by the use of polysyllabic words which he often uses as approximations to correct words and sometimes inaccurately to their meaning"?

A Yes, sir.

Q In plain ordinary language what he's trying to do is to bluff himself through, is that a good layman's analysis of this?

A Well, it's -- "bluff" isn't quite the right word
that I would mean. I think it's to give an impression, I think
it's partly -- well, first of all, it's to give an impression
of a higher level of intellectual achievement that he has.
But I don't think it's all related necessarily to, you know,
a definite effort to do this. I think it's part of his -in other words, um, what I'm trying to say is, I don't think
it's completely conscious.

Q Would you say that this was an unconscious feeling, that he has to prove himself to be a leader of some kind?

A No, I wouldn't say that he has to prove it, no, I don't think that. I would say that --

Q How would you say that?

A I would say that, as I think I phrased it here, that he does need to have compensations to raise his self-esteem by the performance of certain acts or certain achievement.





- Q And that self-esteem, I wonder if you'd enlarge on that.
 - A On "self-esteem"?
 - Q Yes.

Each person views himself, how he thinks of A himself with regard, compared to how he regards a person ideally. He also judges himself with respect to other people He judges himself with respect to people who that he knows. obviously are admitted authorities, who are older, he judges himself with respect to his own peers, his equals, and so on. Basically, I think most of this starts and relates in early childhood in how the child regards himself in his relationship with his parents and his family; and out of that, afterwards through life, as the child grows and as the man matures he goes on right through the whole life. By achievement, which is recognized either by himself or by others, his own selfesteem, naturally -- that he can do "this," can achieve "that" and so on --naturally rises, too. So that each person naturally has a view of himself, a, how he would like to be ideally and, b, how he thinks he is viewed by other people, a whole variety of other people. This is basically what I mean when I discuss "self-esteem,"

- Q This would also be true in his everyday relationship, his relationship with people, too, would it not?
 - A Well, not with everybody, but with many people. In

other words, what I would say is that he would want to be accepted.

Q Now, how about, would that also go towards any special relationship with women?

MR. MARKLE: I'm going to object to this, if the Court please. We are on competency.

THE COURT: Sustained.

MR. GARRY: Well, Judge, it's part of his summary and I certainly ought to be able to go into this.

THE COURT: Sustain the objection.

MR. GARRY: Take an exception.

MISS RORABACK: Exception, your Honor.

THE COURT: We have a very narrow issue here, his competency to testify.

MISS RORABACK: May an exception be noted on behalf of my client, his competency to testify against a woman as well.

THE COURT: Objection sustained.

Exceptions to both parties.



end tk.

(Page 1597 follows; no omission.)

BY MR. GARRY:

Q Now, I believe you went on, Doctor Donnelly, and you pointed out in your summary, "There are strong aggressive elements which can erupt suddenly and with little control when he is taken off guard or when he feels threatened by the immediate environment. His affect or emotional tone is labile..."

A Let me check. "His affect or emotional tone..."

"Affect" is the word for emotion. This is why you determine emotional tone or feeling. There really isn't an exact word in the English language.

Q "That is, it may change rapidly according to the topics of conversation or to environmental circumstances. There appear to be present strong impulses of a violent and destructive nature with inadequate ego controls." Now, would you explain that, Doctor Donnelly?

A What I mean by that, summarizing that statement, is that here is a man who, as a result of his constitution or genetic background and some of the experiences to which he has been exposed, has strong reactions of a destructive or violent nature. Normally, most people have these in one degree or another, but it depends, the degree of aggressiveness and destructiveness — it relates, first of all, to, first, possible genetic factors and, secondly, experiences in the person's upbringing, early experiences. He is a mature



adult. Normally, most people have learned by experience, through training at home and in school and in an environment to control those impulses. They learn it for a variety of reasons.

the other person, or it may be that as a result of their acting out of an impulse, expression of an impulse, they offend the persons whose good will or good regard they wish and, therefore, they develop, in effect, a conscience or super-ego, which we call it. Therefore, what happens is that the individual learns how to control his impulses. Almost any person under any certain set of circumstances, and for that person they may be in a situation where, in spite of those controls, they may come through.

What is meant by this statement is that with Mr. Sams, those impulses -- those normal controls are much weaker than they are in the normal person.

Q Now, Doctor, you have done some work in the field of alcoholism and I presume a certain amount of work on drugs.

Now, I believe, in your history that you have here and the statements taken from Mr. Sams, you had alluded to the fact that he was a heroin addict at one time and that he attributes certain acts that he has been involved in, let's say the one you referred to in Detroit where he got shot five times, he attributes that, that he did not know what had happened



because he had mixed these drinks and he had been drinking alcohol. How much of what you have just told us about in this paragraph about the strong aggressive elements which can erupt, how much of that has anything to do with alcohol or drugs, Doctor Donnelly, in your opinion?

A Well, I am not quite clear what the question is.

Q May I restate it. Perhaps I am not quite clarifying it. What I am trying to say is that, in the explanation you gave to us, I thought rather vividly, is there, rather, any connection between the use of alcohol or drugs of any kind, such as the use of hallucinatory drugs or heroin or marijuana or anything else that will make what you refer to as his aggressive elements more or less under control?

MR. MARKLE: I am going to object, if the Court please.

THE COURT: Sustained.

MR. GARRY: I take an exception.

THE COURT: Exception may be noted.

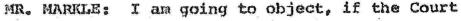
MISS RORABACK: On behalf of both defendants,

your Honor.

THE COURT: Both.

BY MR. GARRY:

O Does alcohol and drugs affect the explanation that you gave in this paragraph that we are under discussion with?





please.

MR. GARRY: It's a different question, Judge.

THE COURT: I know it's a different question, but what do you claim? What is your purpose?

MR. GARRY: Well, my purpose, your Honor, is that when a person of this personality syndrome is under the influence of alcohol and drugs, that he is beyond any ability to be able to control his actions or his activities.

THE COURT: I sustain the objection.

MR. GARRY: May I finish the objection?

THE COURT: I understand what you are driving at. You are going into a different area, not into the area of the competency of Mr. Sams.

MR. GARRY: May I be heard on this?

THE COURT: Yes.

MR. GARRY: The competence of Mr. Sams depends on his ability to recall certain events when he is under the influence of --

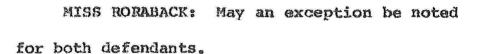
THE COURT: That's credibility you are talking about.

MR. GARRY: No, it's not credibility.

THE COURT: I will sustain the objection.

Take an exception.

MR. GARRY: Thank you.



THE COURT: An exception may be noted for you, too, Miss Roraback.

BY MR. GARRY:

- psychiatrist and in the field of neurology, for a person to be able to be competent to testify, they have to be able to recall, do they not, a particular event that took place?
 - A They have to have the capacity to recall, yes.
- Q And if they are non compos mentis or if they are under the influence of drugs or alcohol or this particular person does not recall anything, that would have an effect on his being able to be competent to recall what happened in those particular events, isn't that correct, Doctor?
- A Well, I'm not quite clear about that. Competency, as I understand it, is a legal question, and in my examination I have to be able to say, does this man have the capacity to recall, to recollect, and to communicate what he does recall.
 - Ω Let me ask you this hypothetical -MR. MARKLE: I object.

Can he finish?

THE COURT: Had you finished?

THE WITNESS: In effect, I had, actually.

This is at this time; whether this relates that he can recall everything that happened to him or not, I think is not a matter of competency.

BY MR. GARRY:

- Q Let me ask you this: Assuming that a person has .40 blood alcohol, --
 - A I'm sorry.
 - Q Has .40 blood alcohol, if he is still breathing -THE COURT: I don't think you could be, .4,
 you'd be dead.

THE VITWESS: Be dead.

THE COURT: You better slide down.

BY MR. GARRY:

- O I will slide down to a scale --
- A He was still breathing, but I understand he meant he was so far that he should be dead.
- Q The man in the corner hadn't gotten around to pick him up yet. Assuming that his blood alcohol level is such that he would be completely unable to recall or know what he was doing, assuming that kind of a person, wouldn't you say, Doctor, that that person in that condition is certainly not competent to testify to events that may have happened at the time that he was under this anesthesia?

A I think --

MR. MARKLE: I object. I am going to object.

It's irrelevant.

THE COURT: Sustained.

MR. GARRY: Take an exception.

THE COURT: Exception may be noted.

MISS RORABACK: Exception for both parties.

THE COURT: Exception for both parties.

BY MR. GARRY:

O Now, you went on with the next paragraph, Doctor Donnelly, and you said, "He has the capacity to formulate relatively simple concepts. On occasion, he is able to discuss relatively complicated concepts which are related to his value system. It is difficult to evaluate how much these verbal productions represent repetition of what he has been taught." What do you mean by that?

A This is a similarization of his part of his participation in the Student Non-Violent Movement and in the Black Panther Movement, and he discussed, in effect, his view of the movement to improve the lot of the Blacks. I can give you a fair amount of it, if you would want me to. He discussed, for example, the question of whether the Whites of today should be blamed for the slavery of the Blacks of the past, and gave me his viewpoint about that.

Q What was his viewpoint?

A His viewpoint was that -- well, there were several aspects to it. First of all, that most of the slaves who were





brought to the western world were, in effect, often slaves of Blacks in Africa itself, and he discussed some elements of that. He felt that what was important was not what was done in the past to Blacks, but what was done today to the Blacks by Whites today, and this is what the Blacks have to address themselves to. This is what I meant by relatively complicated concepts. He discussed a number of these elements. He discussed, for example, the question of whether — I asked him a question, about the division within the Black Panther Movement, such as has been reported in the paper, and he discussed the question as to whether the division was or was not a real one, or whether, if some of these divisions, weren't, maybe, that it was better politically to separate them out.

- Q What did he say about that?
- A Pardon?
- Q What did he say about that?
- A He said he didn't know. He said he didn't know which it was.
- Q Let me ask you this in conclusion, Doctor: Would you say that Mr. Seale -- strike that -- Mr. Sams is a person who is a danger to himself and to society?

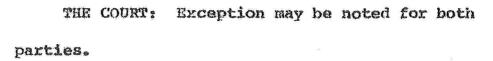
MR. MARKLE: I am going to object, if the Court please.

THE COURT: Sustained.

MR. GARRY: I will take an exception.







MR. GARRY: Thank you, Doctor.

I have no further questions.



THE COURT: Mr. Markle -- Miss Roraback, excuse me.

MISS RORABACK: Your Honor, I just understand from Mr. Diglio that we never yesterday introduced or had marked in this hearing two exhibits which were presented in the prior hearing and then made exhibits in the McLucas trial.

One of them is the report of the Wassaic State
School, and the other was the records of the Eastern
Correctional Institution, and I thought, at least,
I would like to have them marked as exhibits in this
hearing.

THE COURT: Those exhibits were marked for identification yesterday, isn't that correct?

THE CLERK: Yes, but these two were not marked.

THE COURT: 6 and 7.

MR. MARKLE: That's for identification?

THE COURT: Yes.

Wassalc is 6, and Napanoch is 7.

I take it, they are offered for both parties?

MR. GARRY: Yes.

(The report from Wassaic State School was marked as DEFENDANTS' EXHIBIT 6 FOR IDENTIFICATION, on the motion.)

(The report from the Eastern Correctional Insti-

tution was marked as DEFENDANTS* EXHIBIT 7 FOR IDENTIFICATION, on the motion.)

THE COURT: All right.

CROSS-EXAMINATION BY MISS RORABACK:

Q I only have a couple of questions, Doctor Donnelly. First of all, in response to Mr. Garry's questions relating to the fact that on one or two occasions Mr. Sams evaded direct questions on your part, you responded that one of these questions related to questions about his participation in the riots in Detroit. Were there any other areas in which he was evasive?

A He did actually open up to me a little bit but not as to his own personal direct participation, but the reasons why he felt this was, quite frankly, a good reason for it ever having happened there, but it was not mainly in relation to his own actions.

Q Was there any other area in which he was evasive, do you remember, Doctor Donnelly?

A No. He seemed, as I say, he appeared to be answering spontaneously as I talked to him, except in that one area.

Q Now, Doctor, on the first page of your report, you state that in the course of your conversations with Mr. Sams -- at least I believe this was from Mr. Sams -- that he stated his mother regarded him as "fit for the garbage pan." I ask



you, Doctor, whether this attitude his mother -- I'm sorry -- whether this sort of attitude on the part of his mother affected his subsequent relations with women?

MR. MARKLE: I am going to object.

THE COURT: I will let this one be answered.

You may answer it. Doctor.

A I think that his statement about the way that he thinks he was told his mother saw him was premature and, apparently, there was a question of whether he would live or not. I think that later, too, he has very big feelings toward his mother. He did meet his mother later and talked with her and so on, and I don't think there is any doubt that he has definite feelings about his mother. They are curious. He feels her death, and it seems that if she had known that her children loved her, that she wouldn't be as unhappy as she was but, of course, her unhappiness preceded even that, so, of course, he has what would be called very ambivalent feelings about his mother.

- Q Does it carry over into the area of other women?
- A Other women?

MR. MARKLE: I object to this.

THE COURT: I will let it be answered.

Objection overruled.

You may answer it, Doctor.

A I think it affected his relationships with other



women to a degree, in this respect: that his view of women was to keep them at a distance, he did not see himself at this stage in his life participating in a marital relationship, a sexual relationship would be something different, but not on a permanent basis.

Q Let me ask you this, Doctor: Do you feel that he could accurately recall and describe actions of women and/or conversations with women in view of this problem?

MR. MARKLE: I am going to object, if the Court please.

THE COURT: I will let it go in.
Overruled.

Do you understand the question, Doctor?

THE WITNESS: Well, you might rephrase it.

MISS RORABACK: I wonder if it could be reread.

THE COURT: Read it, Mr. Reporter.

(The last question by Miss Roraback was read by the court reporter.)

A I don't see that there is necessarily any relationship one way or the other as a result of this. You know, the extreme of that would be that he wouldn't be able to recall anything accurately with any women he ever talked to which, obviously, is not true. I think one would have to talk in terms of what particular relationship a particular woman had to him in a particular circumstance; then I might have an opinion.

Q But it is possible that that could affect --

It could, but I think one would have to be very specific in this situation, and most people don't recall exactly everything which was said to them. There is a very famous occasion when this was first tested out in the University of Cambridge in England, at which at a medical meeting. which was not so much to do with clinical matters, the place was bugged, and this is back in the 1920's, and it was recorded and all the doctors there were asked -- it was a university -- were asked to recall exactly what they said, and it was all taken down and they checked it out and they found that those who had spoken -- it was an organizational meeting -could remember about 25 per cent of what they, themselves, actually said, so they told the people all about this, and they set up the experiment again and told them they were going to repeat it, and when they repeated it, they found that they still remembered 25 per cent of what they said,

Q I think you have destroyed about 75 per cent of the credibility of the court proceeding.

MISS RORABACK: I have no further questions, Doctor.

THE COURT: Mr. Markle?

MR. MARKLE: No questions.

THE COURT: Mr. Garry, anything further?

MR. GARRY: No.



THE COURT: Doctor, just one question.

Is it your opinion that Mr. Sams is qualified to testify as a witness with respect to the events in which he was a participant or an observer?

THE WITNESS: Yes, sir, I do.

THE COURT: Doctor, you may step down.

MR. GARRY: I have a question now that your Honor asked a question.

BY MR. GARRY:

Q But you are not passing any judgment on whether he is capable of testifying as to events where he has been under such alcohol or drug control that he does not recall the contents of what happened?

MR. MARKIE: I am going to object to that, if the Court please.

THE COURT: Objection sustained.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

Anything further, Counselor?

MISS RORABACK: No.

THE WITNESS: Do you want the original?

THE COURT: Yes. Put it in the file.

You are excused, Doctor. Thank you for coming

in.

(The witness was excused.)

THE COURT: The Court finds, based on the testimony and the report of Doctor Miller dated April 20, 1971, and filed on that day, and the testimony and report of Doctor John Donnelly dated April 12, 1971, and filed on April 21, 1971, this Court finds that the witness, George Sams, Jr., is competent to testify in this case.

MR. GARRY: I take an exception your Honor, on behalf of Mr. Seale.

MISS RORABACK: Both parties.

THE COURT: Exception may be noted on behalf of both parties.

All right, we will stand in recess until 2:00 o'clock.

(The court recessed at 11:25 A.M.)

AFTERNOON SESSION (The court reconvened at 2:03 P. M.)

MR.MARKLE: If your Honor please, before the jury is brought out, I represented that my next witness would be George Sams. However, in the interim, I executed an interstate subpoena, and the person subject to the subpoena, one Maude Francis, has been brought on.

I wonder if I might put her on at this time?
THE COURT: All right.

MISS RORABACK: Your Honor, I would just like to note for the record that, in view of this, I have a number of files in my office which I would wish to bring here before I began cross examination, so I will need a lengthy recess between the testimony of Miss Francis and my cross examination.

THE COURT: We will take care of that.

MISS RORABACK: Thank you.

THE COURT: Call the jury.

Bring the witness in.

(The jury entered the courtroom at 2:05 P. M.)

THE COURT: Good afternoon, ladies and gentlemen.

I think we are ready to proceed.

Mr. Markle.

MR. MARKLE: Yes, I have sent for her, your Honor.

(Miss)

MAUDE

PRANCIS.

of New Haven Motor Inn, New Haven, Connecticut, having been called as a witness by the State, was duly sworn and testified as follows:

DIRECT EXAMINATION BY MR. MARKLE:

- Q Miss Francis, directing your attention to May of 1970 1969, I'm sorry, were you in New Haven around May 18th, May 17th of 1969?
 - A Yes, I was.
 - Q And were you at the Kimbro apartment on that date?
 - A Yes.
- Q And whether or not something happened? Did you come to meet a man named Rackley?
 - A Yes, I did.
 - Q And where did you meet him?
 - A At the Black Panther Headquarters on Orchard Street.
 - Q I'm sorry?
 - A At the Black Panther Headquarters on Orchard Street.
 - And when, about what time, did you first meet him?
- A I don't remember the time exactly, but it was in the late afternoon.
 - And how was he dressed, if you recall, at that time?
- A He had on, I believe, a green and black shirt, black pants, and a pair of black monster boots.







- Q And what, if anything, were you told -- did you speak to him?
 - A Yes.
- O And whom did he come to the Kimbro apartment with, if anyone?
- A Rory, Landon Williams, Chairman Brothers, and a whole lot of other brothers and sisters.
- Q And did you have a conversation with Mr. Rackley that evening?
 - A Yes, I did.
- Q And did you have that conversation as a result of talking to anyone?
 - A Would you explain that, please?
 - Q Did you do anything with Mr. Rackley that night?
 - A Yes.
- Q All right. And what you did with him, was that discussed with anyone before you did it?

MR. GARRY: Leading and suggestive, if your Honor please.

THE COURT: No, I'll overrule the objection.

MR. GARRY: Exception, --

THE COURT: Exception.

MR. GARRY: -- your Honor.

THE COURT: It may be noted.

THE WITNESS: Yes.



BY MR. MARKLE:

- Q Who did you discuss it with?
- A George Sams.
- Q Who else was present?
- A Ericka.
- Q And who else?
- A And I believe Warren Kimbro.
- Q And that's George Sams, Ericka Huggins and Warren Kimbro?
 - A Yes.

MR. GARRY: Wait a minute.

Just a minute, if your Honor please. I am going to object to this recapitulation of the testimony in the direct testimony. I object to it.

MR. MARKLE: I want to know the names.

THE COURT: Overrule the objection.

MR. GARRY: I take exception.

THE COURT: Exception.

BY MR. MARKLE:

Q And who, if anyone, said anything to you while those people were with you?

MR. GARRY: Just a minute, if your Monor please.

This again is leading and suggestive. It is
assuming that something was said.

THE COURT: Read the question.

(The last question by Mr. Markle of the witness was read by the court reporter.)

THE COURT: Overrule the objection.

MR. GARRY: Exception.

Not only that, it's hearsay as to my client.

THE COURT: Overrule the objection.

Exception may be noted.

BY MR. MARKLE:

- Q Can you remember the question?
- A Yes, I do.

THE COURT: Do you remember the question now?
THE WITNESS: Yes.

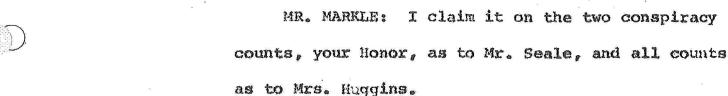
George Sams.

BY MR. MARKLE:

And what, if anything, did he say to you?

MR. GARRY: Object to it on the grounds it's hearsay, if your Honor please, as to Mr. Seale.

THE COURT: What do you claim?



THE COURT: Overrule the objection.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

THE WITNESS: Would you repeat the question, please?

THE COURT: It may be read.

(The last question by Mr. Markle of the witness was read by the court reporter.)

THE WITNESS: I was asked, but in the tone of voice it was a demand, to seduce Mr. Alex Rackley to find out if he was an infiltrator.

MR. MARKLE: All right.

MR. GARRY: May I have the first part of the answer?

THE COURT: The answer may be read.

MR. GARRY: May the whole answer be read?

THE COURT: The whole answer may be read.

(The last answer of the witness was read by the court reporter.)

BY MR. MARKLE:

Q And whether or not you spent the evening with Mr. Rackley?



MR. GARRY: Well, that's leading and suggestive, if your Honor please.

MR. MARKLE: I will withdraw it.

BY MR. MARKLE:

Q What, if anything, did you do as a result of that conversation?

A I was -- I asked questions to find out -- Landon came -- I said, I point blank came out and asked him was he an infiltrator, and his answer was "No."

- Ω All right. And what, if anything, did you do with reference to Mr. Rackley that night?
 - A Well, we had a sexual relationship.
- Q And was it during that period of time that you questioned him?
 - A Yes.
- Q And what, if anything, next happened, as far as Mr. Rackley is concerned?

A After that, the next -- well, the next morning, George Sams came to me and asked me --

MR. GARRY: I am going to object to any conversation with George Sams, or with anyone else, outside the presence of my client.

MISS RORABACK: Outside the presence of mine, as well, your Honor.

MR. MARKLE: I claim it on the conspiracy counts,

your Honor.

THE COURT: The conspiracy counts only?

MR. MARKLE: Yes, sir.

THE COURT: Both parties?

MR. MARKLE: Yes, sir.

THE COURT: All right, I will overrule the objection, --

MR. GARRY: Exception.

THE COURT: -- with that notation.

Exception may be noted for both parties.

THE WITNESS: I was -- George Sams came up to me and asked me, "Did he admit to being an infiltrator?" Which I told him, "Ho."

BY MR. MARKLE:

Ω Then what, if anything, next happened with reference
to Mr. Rackley?

A Well, about 11:00 or 12:00, I'm not quite sure of the time, he was sitting in a chair, he was about to sleep, and Ericka Huggins told him to pick up a newspaper and read. He picked the paper up, as if to read, and he gets about five or ten minutes later and Ericka asked him what had he read, and he told her he didn't know.

- Ω Then what, if anything, happened?
- A There was a whole lot of conversation, which I don't remember which he said.

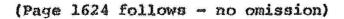
- Q Between whom and whom?
- A (No response.)
- Q Who talked to each other at that time?
- A Excuse me?
- Q Who was talking at that time?
- A Who was talking?
- Q Yes. You say there was a "whole lot of conversation." Between whom?

A Well, Ericka was saying something to him about lying to the people, or something like that, I don't remember, when Warren Kimbro struck him. I do believe he smacked him first.

- O Smacked whom?
- A Alex Rackley.
- Q Then what, if anything, happened?
- A Then he got up, as if to hit Warren back, and so Warren went upstairs, and he went to go for the door, and George Sams stopped him. Warren came back downstairs with a stick, and it was, I think, about this long, with tape on both ends of it, and he hit him with it. (Indicating)
- Q Then what, if anything, happened? What happened to Mr. Rackley as a result of that, if anything?
 - A He bled from it.
 - Q And then what, if anything, happened?
- A After Warren had hit him with it, to my recollection, George Sams took the stick away from Warren, and he hit him

with it.

- And who was present at this time, Miss Francis?
- A Ericka Huggins -- you mean in the whole house?
- Q No. In the room.
- A In the room?
- Q Yes.
- A Ericka, Warren, Alex, George Sams, I was standing in the doorway of the kitchen, between the kitchen and living room.
 - Q What, if anything, next happened?
- A Then Warren told him to get up off the floor and to go to the basement, when George Sams, I would say, showed him towards the basement door.
 - Q Right. And what, if anything, then happened?
 - A They went downstairs in the basement.
 - Q Who went down?
- A Well, at first, Warren, Alex, -- I don't remember if Ericka went straight downstairs.



- Q What, if anything, then happened?
- A After that, they were downstairs in the basement.
- Q And did there come a time when -- what, if any-thing, next happened?

A As I remember, we were, he was taken upstairs and they -- I don't remember who asked him but he was asked, did he want to take a bath. And he said, "Yes."

- Q All right.
- A So --
- Q Go ahead.
- A -- Lonnie McLucas gave him a bath.
- Q Then, what, if anything, then happened as nearly as you can recall?
 - A Then from that I was downstairs in the kitchen.
 - Q All right. And when did you next see Mr. Rackley?
- A He was, as I remember, he was taken downstairs to the basement after.
 - Q Now, who took him down at the time?
 - A I don't remember.
 - Q And what, if anything, happened then?
- A Lonnie McLucas came from the basement and told the sisters to put on hot, hot, to put on water, to let it boil.
 - Q And where was this?
 - A In the kitchen.
 - Q And did you, and some of the other girls?

A Yes.

MR. GARRY: That's leading and suggestive, if your Honor please.

MR. MARKLE: If your Honor please --

THE COURT: I'll let it stand. It was answered

BY MR. MARKLE:

- Q And what, if anything, happened with that water?
- A It was taken downstairs to the basement.
- Q By whom?
- A Lonnie McLucas.
- Q And what, if anything, didyou next hear?
- A There was a scream that came from the basement.

MISS RORABACK: I'm sorry, may that be read?

THE COURT: Read it.

(The court reporter complied.)

BY MR. MARKLE:

- Q And then what, if anything happened?
- A When he came upstairs he was burned, his jaws "sitting out." He had burns on his back. He had like a hole up over his eye. And he was taken upstairs to the bathroom to be given first-aid.
 - Q Did you notice anything else about him at that time?
 - A No.
 - Q All right. And what happened after he'd been brought

upstairs?

- A He was put in the back bedroom.
- Q When did you next see him after he had been put in the back bedroom?
 - A The day I stood security duty.
 - Q And when was that, if you know?
- A It was Tuesday, it was that Tuesday about 2:00, 2:30.
- Q And who was present -- well, question withdrawn.

 Were you present -- where was that? Where did you stay on security duty, let me ask you?
 - A In the back bedroom.
- Q All right. And what, if anything, did you do or see at that time?
 - A What I saw?
 - Q Yes.
 - A He was tied to the bed.
 - Q And how was he tied to the bed?
- A His feet were spread apart. He was tied with rope, his hands were tied to the side of the bed and he had a clothes hanger around his neck.
 - Q Anything else that you observed at that time?
 - A No. He just, he had cotton or cloth in his mouth.
 - Q And how long did you stay with him on that night?
 - A Until I came upstairs and told -- and I think, they



came -- Lonnie came upstairs and told the sisters to get him dressed.

Q All right. Now, prior to that whether or not you had gone to Battell Chapel?

A Yes.

Q Whether or not you had seen anyone there?

MISS RCRABACK: May we have this tied down to time, your Honor? As I understood the prior testimony it was related to later on on Tuesday, and I just --

MR. MARKLE: Yes.

BY MR. MARKLE:

- Q Did you go, before that Tuesday did you go to Battell Chapel?
 - A Yes, I did.
 - Q And for what purpose?
 - A To head Bobby Seale speak.
- Q And do you recall whether or not that was Monday night?
 - A I do believe it was.
- Q All right. And when you returned, did you return from Battell Chapel?
 - A Yes, I did.

(Page 1628 follows; no omission.)



- Q And had you been at the Kimbro apartment before that, before you had gone to Battell Chapel?
 - A Yes.
- Q And what, if anything -- did you see Mr. Rackley that night?
 - A No.
- Q And what, if anything, happened when you came back from Battell Chapel? Did you see him then?

MR. GARRY: That's been asked and answered.

She did not see him that night, which would be

Monday night, Battell Chapel. It's been asked and
answered twice now.

THE COURT: I'll let it be answered.

THE WITNESS: Did I see him that Monday night?
BY MR. MARKLE:

- Q Yes, Mr. Rackley.
- A No.
- Q All right. And did there come a time when you saw anyone else connected with this case in the morning hours of that Tuesday?
 - A That Tuesday morning?
 - Q Yes.
 - A I saw Bobby Seale.
 - Q And where did you see him?
 - A In the kitchen.

- Q Of where?
- A Of the apartment.
- Q Of the Kimbro apartment?
- A Yes.
- Q And would you tell the ladies and gentlemen of the jury, and the Judge, what happened at that time?
 - A He came in the house --

MR. GARRY: Just a minute. I'm going to ask for the time and place. The "morning" isn't satisfactory. I'd like to know what time it was, who was present, the time, place, and person.

MR. MARKLE: If she can, I'll be glad to ask her. BY MR. MARKLE:

- Q Do you know what time it was, approximately, Miss Francis?
- A I think it was about 4:30, 5:00 o'clock that morning.
 - Q In the morning?
 - A Yes.
 - Q And who was present at that time?
- A Myself, Ericka, Rory, I think Landon was there;
 Rose -- no, Rose wasn't there. I do think Aletta Wilson was there.
 - Q And what, if anything, happened at that time?
 - A He came in, he made a telephone call. He couldn't

get through. He hung up the telephone and left.

- O And who did he come in with?
- A Rory and Landon.
- 2 And what, if anything, did they do before he left?
- A Roxy wiped the telephone off.
- O He what?
- A He wiped the telephone off with his handkerchief.
- Q And then what happened?

THE COURT: Who wiped the telephone off?
THE WITNESS: Rory.

THE COURT: Rory, all right.

BY MR. MARKLE:

- Q And did they then leave?
- A Yes, they did.
- Q And did you observe them drive off, or not?
- A No.
- Q Then what, if anything, next happened that morning?
- A I don't remember how long it was between this, but then a telephone call came. Ericka took the call. It was from --

MISS RORABACK: Well, object, your Honor.

THE WITNESS: It was --

THE COURT: Do you claim it?

MR. MARKLE: No, I can't claim it.



BY MR. MARKLE:

- Q What, if anything, did she do as a result of the phone call?
- A She wrote out a message, she gave it to Lonnie, and told him to go catch Bobby.
- Q And do you recall how Lonnie McLucas was dressed at that time?
- A I do believe he had on a green fatigue jacket.

 He had on his tam. I don't remember the pants he had on.
 - Q And whether or not he took that message?
 - A He took it.
 - 9 From her?
 - A Yes.
 - Q And what, if anything, did you see him do with it?
 - A I think he stuck it up in his pocket.
 - O Then, what, if anything, did he do?
 - A He got the keys from Warren, and he left.
 - Q And did there come a time when he later returned?
- A I didn't see him return, but he was there later on that afternoon.
- Q And whether or not there came a time about, there came a time when you were told to go upstairs to Mr. Rackley -- you were already on guard duty, is that right?
 - A That was that Tuesday afternoon.
 - Q You were on guard duty?

A Yes.

MR. GARRY: There was nothing said about "guard duty," if your Honor please. That's a leading and suggestive remark. It was said she was on "security."

MR. MARKLE: I'm sorry.

THE COURT: You're changing it to "security"?

MR. MARKLE: I'll change it to "security."

BY MR. MARKLE:

- Q And what was the nature of your security assignment?
- A To sit there and watch him.
- O Watch who?
- A Alex Rackley.
- Q And at that time where was he located?
- A In the bed, tied down.
- Q And what, if anything, then happened?
- A Well, I had fallen asleep, and Lonnie and Landon came upstairs --
 - Q That's Landon Williams and Lonnie McLucas?
 - A Yes.
 - Q Thank you. Go ahead.
- A -- and I was disciplined for falling asleep on security duty.
 - Ω All right. And how were you disciplined?
 - A Had to do deep knee bends.

Q And what, if anything, then happened?

A And then Lonnie, when I came back upstairs, Lonnie told us to get him dressed.

MR. GARRY: May I have the portion read about, the last two or three questions and answers?

THE COURT: Yes, read the last few questions and answers.

(The court reporter complied, starting with, "And what, if anything, then happened?")

BY MR. MARKLES

And whether or not -- what, if anything, did you do as a result of that?

A I don't remember who went downstairs to get some clothes that was down in the basement. They were brought back upstairs, and we dressed him.



Q All right. Who was present at that time when you dressed him?

A Myself, Loretta Luckes, Aletta Wilson, and Rosemarie Smith.

Q And who, if anyone, was present -- were there any males present at that time?

A I'm not sure.

Q All right. Then what, if anything, happened? Well -- question withdrawn.

How was he dressed?

A He had on a pair of pin-striped pants, and a purple Nehru jacket.

Q And whether or not he had on any other clothing that you observed?

A No.

Q And what, if anything, did you observe concerning his hands?

A They were tied behind his back.

Q By whom?

A I -- I don't remember who tied his hands.

Q Have you now exhausted your recall?

A Excuse me?

Q You have no recall?

A No.

MR. GARRY: Well, just a minute. That's lead-

ing and suggestive, if your Honor please, this business of not having recall is a leading and suggestive remark on the part of the prosecution.

THE COURT: I don't think so. I'll overrule your objection.

MR. GARRY: Exception.

THE COURT: You don't remember, I take it?

THE WITNESS: No, I don't.

THE COURT: All right.

MR. MARKLE: May this be marked for identification?

THE COURT: Double "Q."

(The document referred to was marked as STATE'S EXHIBIT QQ FOR IDENTIFICATION.)

BY MR. MARKLE:

Q I show you --

MR. GARRY: I'm going to object, just a minute, counsel.

I'm going to object to the witness being shown any documents. This is his witness, this is his direct testimony and any document shown to her is hearsay and we have not had an opportunity to cross-examine the contents of that document, and it cannot, and should not, be shown to her.

THE COURT: I'll overrule the objection.

MR. GARRY: Take an exception.

THE COURT: He's entitled to show her, and ask her if it refreshes her recollection.

BY MR. MARKLE:

Q I ask you, Miss Francis, does that refresh your recollection? (Showing the witness)

A Yes.

Q Who had tied his hands?

MR. GARRY: I think we are entitled to see the document, if your Honor please.

THE COURT: No, you are not, Mr. Garry. You will see it at the proper time.

MR. GARRY: You mean --? May I be heard outside the presence of the jury?

THE COURT: Yes, you may.

You're excused.

(The jury was excused at 2:30 P.M.)

MR. GARRY: I think it's well known Hornbook rule, the rules of evidence throughout the United States -- and I'm sure it applies to this State as well -- that any document shown to refresh the memory of a witness is certainly subject to examination and perusal and observation by opposing counsel.

THE COURT: Not at this time, Counsel. It's not an exhibit, it's only been marked for identification.



MR. GARRY: Well --

THE COURT: You will get the document at the proper time.

MR. GARRY: Well, it's not my question of getting it at a "proper time," The proper time is now so that I can make the proper objections. and I cannot make proper objections --

THE COURT: I'll overrule your objection, counsel. Exception may be noted.

MR. GARRY: I don't even know what page he showed, what he did show. He could have shown, he could have shown a credit card of any kind.

THE COURT: It's been marked for identification. counselor. It's Exhibit "QQ."

MR. GARRY: I know, but he doesn't show a page number, he doesn't call her attention to anything, so we have no way of knowing what it is.

THE COURT: You can inquire at a later time. I'll overrule the objection.

MR. GARRY: May the record show I object to it?

THE COURT: The record so shows.

Call the fury.

(The jury entered the courtroom at 2:32 P.M.)

(Page 1638 follows; no omission.)



end tk.

THE COURT: All right, Mr. Markle.



BY MR. MARKLE:

- Q That has refreshed your recollection, has it not?
- A Yes, it has.
- Q Who, if anyone, had tied him?
- A Landon Williams.
- Q And this was before -- all right. Then what, if anything, happened?
 - A After they tied his hands, they left.
- Q When he was seen in that room, how -- what, if anything else, did you observe about him?

A About him?

MR. GARRY: Just a minute. I don't even know who "him" is.

BY MR. MARKLE:

Q What, if anything else did you observe about Mr. Rackley before he left?

A He had his hands tied behind his back. He had, I believe, a clothes hanger around his neck.

- Q I'm sorry. I didn't hear that.
- A A clothes hanger.
- Q Around --
- A His neck.
- Q And whether or not you noticed anything concerning his feet?



- A He didn't have on any shoes.
- Q And what, if anything, then happened as far as Mr. Rackley goes?
 - A They took him out.
 - Q Who took him out?
- A George Sams, Warren Kimbro, Lonnie McLucas and George Edwards.
- Q And did you observe anything -- what, if anything, did you observe about them?
 - A They had guns.
 - Q Who had the guns?
 - A Lonnie had a gun, Warren had one.
 - Q And how did they go out of the house?

 MR. GARRY: Just a minute.

Is that the end of her recall?

BY MR. MARKLE:

- Q Is it?
- A Yes, it is. I don't remember anyone else.

 MISS RORABACK: I'm sorry. Could that be read back?

THE COURT: Yes, it may.

(The court reporter complied.)

BY MR. MARKLE:

- Q What door did they leave by, Miss Francis?
- A The back door.

- Q And whether or not anyone else was present at that time?
 - A In the house when they left?
 - Q Yes.
 - A Yes.
 - Q Who was present?
 - A Myself --

MR. GARRY: Just a minute. I am going to ask that the time and place where the other persons are present so we will know exactly what we are talking about.

THE COURT: I think it is clear that he is talking about the time they left.

MR. GARRY: The time, all right. The place?
BY MR. MARKLE:

Q Who, if anyone, was in the kitchen at the time they left?

MR. GARRY: I didn't ask that he designate the place. The witness should tell us where everyone was.

THE COURT: I will sustain the objection.

Rephrase your question, Mr. Markle.

BY MR. MARKLE:

Q What room, if any one, was Mr. Rackley taken out through?



- A The kitchen.
- Q Who was in that room, if anyone, as he was led out?
- A Myself, Rosemary Smith -- I'm not sure, but I do believe Ericka was standing in the kitchen at that time, too.

MR. GARRY: I ask it go out, if she's not sure.

MR. MARKLE: I think --

THE COURT: She said, "I'm not sure, but I do believe..." I will let it stand. It goes to the weight, if any.

BY MR. MARKLE:

- Q Anyone else that you can recall?
- A No.
- Q When did you next see any of the men that had left?
- A About two hours, two, three hours later.
- Q And whom did you see return to the apartment?
- A Lonnie McLucas, Warren Kimbro and George Sams.
- Q And did you have any conversation with them at that time?
 - A No. They --

MISS RORABACK: I will object to anything further.

THE COURT: I think she answered no.

MISS RORABACK: But she started to go on.

THE COURT: I will let it stand.



BY MR. MARKLE:

Q Did they say anything in your presence?

A Yes.

MR. GARRY: That has been asked and answered.

THE COURT: No, it hasn't. The question was,

"Did you have any conversation with them?" She
said --

MR. GARRY: I will object to it.

THE COURT: Wait a minute.

The next question was, "Did they say anything in your presence?"

Do you have any objection to that?

MR. GARRY: That has been answered already.

I will wait for the next question.

THE COURT: There was no answer to that last question, I don't believe.

MR. GARRY: I thought she answered it.

THE COURT: I didn't get one.

Did you, Mr. Reporter?

THE REPORTER: Yes.

THE COURT: Would you read it.

(The last question by Mr. Markle and the answer of the witness were read by the court reporter.)

BY MR. MARKLE:

What, if anything, did they say?

MR. GARRY: I object to it on the grounds it is outside the presence of my client, and it is a long time since any portion of this so-called conspiracy, it has long since been completed.

THE COURT: What do you claim?

MR. MARKLE: I claim it is relevant on the conspiracy, your Honor.

MISS RORABACK: As to both?

THE COURT: Well, in what aspect?

MR. MARKLE: It is a showing of what further was done, and a further statement in relation to the conspiracy, as to what was done.

THE COURT: The conspiracy is all over.

MR. MARKLE: Your Honor has ruled that way.

THE COURT: I will make the same mistake twice. I will sustain the objection.

MR. MARKLE: And I respectfully take the same exception, your Honor.

THE COURT: Exception noted.

BY MR. MARKLE:

- Can you describe the weapon that you saw in the hands of Mr. McLucas before he left the apartment?
 - I do believe it was a .45.
- 0 When the men returned that night, Mr. Rackley was not with them?

- A No, he wasn't.
- Q And can you describe to me the condition of Mr. Rackley when he was taken from the bed and dressed that night?

MR. GARRY: Been asked and answered, if your Honor please.

MR. MARKLE: I never asked on the condition.

MR. GARRY: Yes, he did.

THE COURT: I don't know. I know the clothing was described. I'm not even sure of that. The clothing was described at one time.

I will let her answer it.

MR. GARRY: May exception be noted.

MISS RORABACK: Exception.

THE COURT: Exception may be noted.

THE WITNESS: Would you repeat the question, please?

THE COURT: It may be read.

(The last question by Mr. Markle was read by the court reporter.)

THE WITNESS: He -- we untied him. We dressed him -- well, his pants were put on with him laying down, and then he was helped to sit up.

BY MR. MARKLE:

What was the condition of that room as observed by

you?

- A The condition of the room? It was -- how can I explain this -- it was smelly.
 - Q What type of smell?
 - A Pec.
 - O In other words, Mr. Rackley urinated on himself?
 - A Yes, he did.
- Q And whether or not he was taken to the head while you were there, to the men's room?
 - A Not that I know of.
 - Q And that smell was in that room?
 - A Yes.

MR. GARRY: Been asked and answered, if your Honor please.

MR. MARKLE: I have no further questions, your Honor.

THE COURT: You had a request, Miss Roraback?

MISS RORABACK: Yes. I would need some time

to get some papers from my office in connection with

this witness, and I also have a motion, of course,

for the production of any statements of Miss Francis.

THE COURT: Those will be supplied as a matter of course.

Do you have them ready, Mr. Markle?
MR. MARKLE: Yes, I do.

(Mr. Markle handed papers to defense counsel.)

THE COURT: That's "OQ"?

MR. MARKLE: Yes, it is, your Monor.

THE COURT: What do you suggest, Miss Roraback?
MISS RORABACK: I would suggest that we recess

until 3:30, your Honor.

THE COURT: All right, ladies and gentlemen, we are going to have a recess for about three-

You may retire.

(The jury was excused at 2:42 P. M.)

THE COURT: Mr. Sheriff, find out if any of the jurors would like coffee. If so, get it for them.

MR. MARKLE: If your Honor please, I just want to make the record clear. "O" was one document.

I have turned over three.

MISS RORABACK: Two or three?

MR. MARKLE: Three, actually. They may be stapled together.

THE COURT: All right. You may step down, young lady.

MR. MARKLE: "QO," the one that has been marked has been placed in the custody of the Clerk.

THE COURT: You have complied with the Statute,

Mr. Markle?

HR. MARKLE: Yes, sir, I have.

THE COURT: Three documents, Mr. Markle?

MR. MARKLE: Yes.

THE COURT: Each counsel have a set?

MR. MARKLE: Yes, sir.

THE COURT: We will prepare to recess until 3:30.

MR. GARRY: I would like to have our clients remain here because there are things I would like to discuss with them.

THE COURT: All right.

Sheriff, clear the courtroom so counsel may confer with their clients.

Recess.

(The court recessed at 2:47 P. M.)

(The court reconvened at 3:45 P.M.)

THE COURT: All set, counsel?

MISS RORABACK: If your Honor please, before the jury is called, I understood from the witness that she was appearing here as a result of an interstate subpoena, as Mr. Markle referred to it, and I was reminded that during the course of the prior trial in the McLucas case, the defense attempted to obtain certain witnesses under that same section of the statute, at least I believe that's the statute the State must have been proceeding under, Section 54-22(c) of the statute, and at that time it was required that there be an adversary proceeding, at which the State could be heard as to whether or not the defense could call a witness.

We were not given any notice of any proceeding to compel Miss Francis to come here, and indeed I asked Mr. Diglio, during the recess, to search the papers in the file to see if there were any, and he said there were not, and I object to an exparte proceeding to compel the attendance of a witness under these circumstances, your Honor.

THE COURT: Overrule your objection.

MISS RORABACK: May an exception be noted?

THE COURT: Exception may be noted.





MISS RORABACK: May I also see the papers,
your Honor, before we proceed with cross-examination, under which Miss Francis was brought here?

THE COURT: I don't know that either.

Are they here?

MISS RORABACK: They were not in Mr. Diglio's file.

MR. MARKLE: I don't have them in here. They are on file.

THE COURT: If they are not here, they must be on file in the Clerk's office somewhere, I suppose.

MISS RORABACK: I'm asking they be produced.

THE COURT: I am assuming some judge from Connecticut did something to get her here.

MR. MARKLE: That's right.

THE COURT: I don't know what it is --

MISS RORABACK: Might they be produced, your Honor?

THE COURT: You can examine them tomorrow, or tonight, or any time you want, but we are going to proceed now.

MISS RORABACK: I am asking they be produced, so they might be made a part of the file of this court, so that my objection is --

THE COURT: I suggest you examine the Clerk's

office.

If, Mr. Markle, you can be helpful, I suggest you be helpful.

MR. MARKLE: Yes, sir.

MISS RORABACK: Might I ask what day, you know, they were filed?

I don't know how they would be filed. I don't know how --

MR. MARKLE: Your Honor, I just told her she could see them.

I don't know what the relevancy is to this. The witness has already testified.

THE COURT: I don't either. I don't either, but if she wants to look at them, of course, she is entitled to look at them.

MISS RORABACK: It's a basic denial of due process, your Honor, and also, apparently, if the defense was compelled, if they wanted to bring witnesses from out of state, to go through an adversary proceeding, and the prosecution is not, I think this is a denial of equal protection as well.

THE COURT: I have overruled your objection,
Miss Roraback.

I don't recall any application being made in the McLucas case for production of any out-of-state

witnesses.

I do recall I authorized a thousand dollars, during one of the motion stages when all parties were available, to Mr. Flynn, I guess it was, he was public defender, so I authorized him to use that, because I had that authority, and I received no report from Mr. Flynn, so I don't know if he ever expended a nickel of the thousand dollars.

MISS RORABACK: For the record, might I note that in the actual trial of Mr. McLucas, I believe application was made for a subpoena under that provision of the statute, 54-22(c), and that subpoena was addressed to one Huey Newton, and that was denied by this Court.

THE COURT: Yes, I recall that. Yes. Yes.

MISS RORABACK: It would have required an adversary proceeding at that time.

THE COURT: I made a ruling in that case.

I will overrule your objection in this case.

MISS RORABACK: May an exception be noted, your Honor?

THE COURT: What ruling I made in that case, I don't recall, but whatever ruling I made, I did make it, and the record will show what the circumstances were.

MISS RORABACK: Exception be noted?

THE COURT: Exception may be noted.

MR. ROSEN: Your Honor, we join in that, your Honor, and in addition, with respect to Miss Roraback's motion, I would ask that the witness' testimony be stricken at this point and that she be excused.

I am making that specific request.

THE COURT: Deny your motion.

MR. ROSEN: Exception, and may I also join in what Miss Roraback said.

THE COURT: Exception noted.

Call the jury.

(The jury entered the courtroom at 4:50 P.M.)

THE COURT: All right, you had finished direct, Mr. Markle?

MR. MARKLE: That's correct, your Honor.

Yes, sir.

THE COURT: Miss Roraback.

MISS RORABACK: Thank you, your Honor.

One thing, your Honor, before I begin.

I understand that there was some conversation between the witness and the matron sitting near her during the course of her direct testimony --

THE COURT: You mean at the beginning of it?

MISS RORABACK: During the course of it, while she was there on the witness stand, and I just would like to be sure that that doesn't occur again.

THE COURT: I didn't notice it. I wasn't aware of it.

MISS RORABACK: I was not --

THE WITNESS: There was no conversation.

MRS. DIRIENZO: (Police matron) She asked me to approach her, but I didn't.

THE COURT: All right, there was no conversa-

MISS RORABACK: Thank you.

CROSS EXAMINATION BY MISS RORABACK:

- O Miss Francis, as I understand your answer to your question excuse me your answer to the questions of Mr. Markle, on his direct examination of you, you are here as a result of a subpoena?
 - A Yes.
 - Q And how long ago was that served upon you?
 - A Yesterday.
- Q And was that served somewhere outside the State of Connecticut?
 - A Yes.
- Q Now, Miss Francis, you talked about Mr. Rackley arriving at the Black Parther Party Headquarters on May 17, 1969, and would you tell me approximately what time that was you first saw him there?
 - A I don't remember what the time was.
 - Q Was it during the daytime or was it in the evening?
 - A Daytime.
 - Q Daytime?
 - A Yes.
 - Q And did you see him when he actually arrived or --
 - A Yes, I did.
 - Q And he came in the door with various other people?
 - A Yes.
 - Q And when he first arrived, there was nothing

particularly unusual about the arrival, was there?

A No.

And, actually, after he was there, and while he was there, he just talked with the other people, the same as other people, didn't he?

A Well, after he came there, we had a political education class.

Q Before that time, do you remember - I might say

Mr. Kimbro has told us that he rolled posters with Mr. Rackley.

Did you see him doing that?

A No.

Q You didn't?

A No.

Q And Mr. Kimbro said he had just a general conversation --

MR. MARKLE: I am going to object to what Mr. Kimbro said, your Honor.

It's not what Mr. Kimbro said, it's what this witness said.

MISS RORABACK: I am asking her if she -MR. MARKLE: She's characterizing it, your
Honor.

MISS RORABACK: I was about to finish the question, your Honor.

THE COURT: All right.

BY MISS RORABACK:

- Q Did you hear the conversations between Mr. Kimbro and Mr. Rackley while they were sitting there rolling those posters?
 - A No.
- Now, that next morning, Miss Francis, or the afternoon I am talking now about the 18th you testified that
 Mr. Rackley went downstairs at one time and that he then was
 taken upstairs and Lonnie McLucas gave him a bath, and then he
 was taken downstairs again a second time. Do you remember
 giving a statement, Miss Francis, to the New Haven Police
 Department?
 - A Yes.
 - Q On the sorning that you were arrested?
 - A Yes.
- Q And in that statement, do you remember saying to the officers that he was taken upstairs and given a bath and put to bed?
 - MR. MARKLE: I am going to object, if the Court please, unless there is some inconsistency or the statement is marked, and I have no objection to it coming in.

THE COURT: Miss Roraback, don't you think the proper way to do what you are doing is to show it to her and ask her if that refreshes her recollection

as to what was done?

MISS RORABACK: I will put it this way, your Honor.

BY MISS RORABACK:

- Q Do you remember when you first described these events, Miss Francis, you only had Mr. Rackley taken upstairs one time, and he was put to bed?
- A Your Honor, may I ask her a question?

 I don't know what statement she is talking about,
 the handwritten one or the typed one.
- I am referring to this. (Indicating)

 I would be happy to show it to you; the handwritten one, it's the one you gave on the first day.
 - A All right.

MISS RORABACK: May I approach the witness with this and show her this, your Honor? (Indicating)
THE COURT: Surely.

MISS RORABACK: I am just referring to this
copy of the handwritten statement, Miss Francis,
and especially this sentence right here. (Indicating)
BY MISS RORABACK:

Q Is it fair to say, Miss Francis, that in that first statement that you gave on the morning of May 22, 1969, you did not refer to him being taken to the basement twice, but only once?





- A That's when I was first arrested?
- Q Yes.
- A I was upset at the time.
- Q Well, is that what you said at that time?
- A Yes.
- Now, as I understood it, Miss Francis, you saw
 Alex Rackley upstairs on two occasions, one was on the
 evening when he first went upstairs after this incident in
 the basement, is that right, and the second time was on
 Tuesday?
 - A Yes.
- Q And Ericka Huggins was not present on either of those occasions, is that right?
 - A I don't remember.
 - Q You don't remember?
 - A I don't.
 - Q I'm sorry, I couldn't hear you.
 - A I don't remember.
- Q All right. And at the time that you helped to dress Alex Rackley, she was not present, was she?
 - A Ho.
- Now, you said that, I believe, when you saw him upstairs on that Tuesday, in the afternoon, that he had some sort of cotton or cloth in his mouth?
 - A Yes.



- Q And that was taken out before he left, was it not?
- A I don't remember.
- () Well, again showing you your statement of May 22, 1969, especially on the second page, I ask you if that refreshes your memory of that? (Indicating)
- A What is that saying, the same thing I said, I don't remember.
- Q It says, "Nothing that I know of was in his mouth"?
 (Indicating)
 - A That's the same thing I said.
 - Q Did you see anything in his mouth?
- A Not -- I don't remember if anything was in his mouth or not.
- And you talked about helping dress him up there, and that's why you knew that he had that Nehru jacket on, right?
 - A Yes.
 - Q And the striped pants that you referred to?
 - A Yes.
- Q And since you had helped to dress him, you knew he didn't have any boots on, is that right?
 - A Yes.

MISS RORABACK: I have no other questions.
THE COURT: Mr. Garry.



CROSS-EXAMINATION BY MR. GARRY:

Q Miss Francis, I only have one or two questions.

As I understood your testimony, Mr. Kimbro struck Mr. Rackley, and Mr. Rackley fought back, is that correct?

- A No. I said he stood up "as if" --
- Q As if to fight back, right?
- A -- fight back.
- Q And then Mr. Kimbro went and got a big stick?
- A I wouldn't call it "big."
- Q Would you describe the stick with your hand; how big you think it was?
- A It would be this wide (indicating), with tape at both ends.

THE COURT: Indicating?

- Q How wide was it, do you know, the stick?
- A No.

THE COURT: Don't you want a measurement in the record, Mr. Garry?

MR. GARRY: I will, in a minute.

BY MR. GARRY:

- Q How wide would you say the stick was?
- A I said about this (indicating) long.
- Q That wide?
- A Well, I wouldn't say it was wide, it was like a tube, or something.



- Q It was a dowel, a round one?
- A Yes.
- Q And how, -- could you put your finger, your two fingers around the doweling, or the stick itself?
 - A Yes.
 - Q And how long was it?
 - A I said about this (indicating) long.
 - Q That would be about twelve inches?
 - A I guess so.
 - Q And then George Sams took the stick away --
 - A Yes.
 - Q -- from Mr. Kimbro, isn't that right?
 - A Yes.
- Q And then he started beating Mr. Rackley with it, and he broke the stick, isn't that correct?
 - A I don't remember if he broke it or not.
- Q I wonder, Miss Francis, if you would read this, which is dated May the 24th, 1969, when you are talking to one of the police officers, and the answer right there. (Indicating) Beginning, "What did," and then end right here. (Indicating)
 - A Where do you want me to read? This?
- Q Begin right here, read it to yourself, and end it right here. (Indicating) What does that say?
 - A It says, he broke it.

- Q George Sams broke the stick --
- A That's what it says.
- Q -- on --
- A Yes.
- Q -- Alex Rackley, is that right?
- A Yes.
- Q Were you afraid of George Sams on that particular time?
 - A Was I afraid of him?

MR. MARKLE: Object.

THE COURT: Overruled.

Q Yes.

MR. MARKLE: Exception.

THE COURT: The answer, I didn't hear it.

MR. GARRY: She just repeated my question.

THE COURT: She what?

MR. GARRY: She just repeated my question.

- A Yes, I was.
- Q And in what way was he acting that made you afraid of him?
- A Well, if you didn't do something he'd yell, or say what he was going to do to you.

MR. GARRY: I didn't hear the answer.

THE COURT: Read it back.

(The court reporter complied.)

BY MR. GARRY:

- Q And was he carrying a gun in his waist?
- A Excuse me?
- Q Was Mr. Sams carrying a weapon, a gun inside of his waist? Was he showing a gun, is what I mean.
 - A Not that I remember.
 - Q And did he, were you present when he -- strike that.

 Did he threaten Loretta Luckes --

MR. MARKLE: I'm going to object, if the Court please. It's outside my direct.

Q -- in your presence?

THE COURT: Overruled.

MR. MARKLE: May I have an exception?

THE COURT: Exception noted.

A I believe he did, at one time.

BY MR. GARRY:

Q Now, it is also true, is it not, that Mr. Sams told you and the others that Alex had admitted that he was an infiltrator, and that he was surrendering information to the "Pig Department"; did he ever say that in your presence?

A I can't remember if he did or if he didn't.

Q I wonder if you'd be kind enough to look at this,
Miss Francis. (Handing to the witness) This part, right
over here. (Indicating)

A I read this already.

Q Does that refresh your memory that George Sams related to the rank and file that Alex had admitted, himself, that he was an infiltrator, that he was surrendering information to the "Pig Department"; does that refresh your memory?

A Yes.

MR. MARKLE: May we have when that was, your Honor? When he told her that?

THE COURT: Are you reading from something?

MR. GARRY: Yes, I am. She just read it, she said.

THE COURT: Well, that's not in evidence.

MR. GARRY: I know but I asked her, does this refresh her memory.

THE COURT: All right. Did she answer that?

MR. GARRY: I'm trying to get an answer.

THE COURT: Does that refresh your recollection?

THE WITNESS: I said, "Yes."

THE COURT: It does? All right.

Now, ask her the question, Mr. Garry.

MR. GARRY: Beg pardon?

THE COURT: Now, ask her the question. She says

it does refresh her recollection.

BY MR. GARRY:

- Q And he did say that, is that right?

 MR. MARKLE: May I have when, your Honor?
- Q At any time?
- A Yes.

MR. GARRY: I have no further questions.

THE COURT: Mr. Markle?

REDIRECT EXAMINATION BY MR. MARKLE:

Q Miss Francis, when did he tell you that he was an infiltrator and that he was surrendering information?

THE COURT: Who are we talking about?

MR. MARKLE: Same, Mr. Same.

THE COURT: And who else are we talking about?

MR. MARKLE: That Alex Rackley was an infiltrator.

- A I don't exactly remember the date.
- Q Pardon?
- A I don't exactly remember the date.
- Q Well, was it before or after Mr. Rackley had been removed from the premises?
 - A I think it was after.
- Q And whether ornot you had a conversation with anyone else about Mr. Rackley being an infiltrator while on those
 premises?

MISS RORABACK: I'll object to any conversations after midnight.

THE COURT: The question is, "did."

MISS RORABACK: Yes.

THE COURT: All right.

A I'm just repeating your question: Did they have any other, further conversation after?

BY MR. MARKLE:

Q No, what I'm asking is, whether anybody else told you about Mr. Rackley being an infiltrator?

MR. GARRY: That's incompetent. It's not emcompassed by my cross-examination. My cross-examination was very succinct, and right direct to the point as to what Mr. Sams said.

THE COURT: I'll overrule the objection.

MR. GARRY: I'll take an exception.

THE COURT: Exception noted.

- A Yes.
- Q Who else?
- A Lounie McLucas.
- Q And what, if anything, did he tell you?

 MISS RORABACK: If your Honor please --

THE COURT: Wait a minute. Go ahead, Miss Rora-back.

MISS RORABACK: I object to this, as to the time.

I mean, at a subsequent time --

Q When did he tell you that?

A He related this to us, a, I think while they were downstairs in the basement, I do believe; I'm not quite sure.

MR. MARKLE: I'm sorry, may I have it read?

THE COURT: Read it.

(The court reporter complied.)

BY MR. MARKLE:

Q And whether or not -- when that stick was broken on Mr. Rackley, who was present at that time?

A Warren Kimbro, George Sams, Ericka Huggins -- I don't remember anyone else -- and I was standing in the doorway between the kitchen and the living room.

Q And, incidentally, when you gave that first statement you were asked about by Miss Roraback, on May 18th, 1969, how old were you?

THE COURT: On when?

MR. MARKLE: May --

MR. GARRY: That's not covered by the cross-examination.

MR. MARKLE: It's dated May 18th, 1969.

MR. GARRY: That was not covered by the cross-examination, if your Honor please.

MR. MARKLE: Now, if your Honor please, Miss Roraback referred to it.



MR. GARRY: I did not refer to her age.

MISS RORABACK: Your Honor, this has nothing to do with the cross.

MR. MARKLE: She was asked if she gave a full statement and she said she was upset --

MR. GARRY: I didn't ask if she gave a full statement.

THE COURT: I'll overrule the objection. She may answer how old she was.

BY MR. MARKLE:

- Q How old were you at that time?
- A Fifteen.
- Q And I'll ask you whether or not this is the statement that you were asked about by Miss Roraback, and whether or not it is in your hand. (Handing to the witness)

A It is, it is in my handwriting.

MR. MARKLE: I would offer this, your Honor.

THE COURT: Object?

MISS RORABACK: Yes, your Honor.

THE COURT: Object, Mr. Garry?

MR. GARRY: Yes, I do.

THE COURT: Sustained.

MR. MARKLE: Might it be marked for identification, your Honor?

THE COURT: That's not "QQ"?

MR. MARKLE: No. sir.

THE COURT: All right. It may be marked for identification. That's a handwritten one, is it?

MR. MARKLE: Yes, it is, your Honor.

THE COURT: Double "R."

(The document referred to was marked as STATE'S EXHIBIT RR FOR IDENTIFICATION.)

MR. MARKLE: Your Honor bear with me one minute?

BY MR. MARKLE:

Q You were shown State's Exhibit RR for identification and asked whether or not that mentioned taking Mr. Rackley upstairs. Would you read to me what you had read that refreshed your recollection?

MISS RORABACK: Your Honor, I object.
MR. GARRY: I object.

Q I want you to read it to yourself first.

MR. MARKLE: And then I'm going to ask that it be admitted so that it may be put in context.

THE COURT: Read it to yourself. And then put your question.

BY MR. MARKLE:

- Q Do you recall what sentence you were shown?
- A Yes.
- Q What does it read?

MR. GARRY: I'm going to object.

MISS RORABACK: Object.

THE COURT: Sustained.

MR. MARKLE: I claim it. Might I just be heard on it?

THE COURT: Take -- go ahead.

MR. MARKLE: She said -- she was asked about a handwritten statement. She was shown a copy of the handwritten statement, and especially this statement right have. That's a direct quote and she showed it to her, it was shown to her and I have a right to put it in evidence.

THE COURT: No, you don't. She refreshed her recollection. She answered the question, and that's it.

MR. MARKLE: All right.

THE COURT: I'll sustain the objection, if I haven't done so already.

MR. MARKLE: Might I have an exception?

THE COURT: Exception may be noted.

BY MR. MARKLE:

Q When he was taken upstairs and put to bed what, if anything, was done to him at that time?

MR. GARRY: This has all been covered on direct testimony. Now we are rehashing it again.

THE COURT: I think it was touched on in cross-

examination, also, so he has a right to go back.

MR. GARRY: I didn't touch it.

THE COURT: I'll overrule the objection.

Go ahead.

THE WITNESS: Would you repeat it?

MR. GARRY: Exception.

THE COURT: Exception may be noted.

The question may be read.

(The court reporter complied.)

MISS RORABACK: If your Honor please, I'm going to object. This is outside the presence of my client.

THE COURT: "What, if anything, was done to him."
This is not conversation. Mr. Markle.

MR. GARRY: Hearsay by conduct.

MISS RORABACK: Hearsay by conduct, your Honor.

THE COURT: I'll overrule the objection.

Exception may be noted.

MR. GARRY: I'll join in that exception.

THE COURT: Exception may be noted for yu, too.

BY MR. MARKLE:

Q Do you recall?

THE COURT: Do you remember the question, Miss Francis?

THE WITNESS: I remember it.

THE GOURT: All right.

- A Not that I remember, the first time.
- Q And showing you State's Exhibit RR for identification, does that refresh your recollection? (Handing to the witness)
 - A The second time?
- Q Yes. What, if anything -- does that refresh your recollection as to what you told the police at that time?
 - A Yes.
 - Q And what, if anything, did you tell them?

 MISS RORABACK: If your Honor please, I rise

with the same objection, as to hearsay by conduct.

THE COURT: Overrule the objection. Exception may be noted to both parties.

MR. GARRY: Just a minute, if your Honor please.

It wouldn't make any difference what she told the police.

THE COURT: I'm going to sustain the objection to the question the way you put it, Mr. Markle.

She was asked if that refreshed her recollection and she said, "Yes."

Now, you put the question to her, what was done, or what happened? Not what she told the police.

MR. MARKIE: All right.

end tk.

(Page 1673 follows; no omission.)

BY MR. MARKLE:

Q What, if anything, was your recollection at that time?

THE COURT: Now, wait a minute --

HR. GARRY: Objection.

THE COURT: Well, I overrule the objection.

Exceptions may be noted for both parties.

THE WITNESS: He was tied down to the bed.

BY MR. MARKLES:

Q And for what reason, if any?

MR. GARRY: Just a minute, if your Honor please.
We are now --

THE COURT: I sustain the objection.

MR. MARKLE: I am trying for verbal completeness.

She was asked about a sentence in here.

THE COURT: Take an exception, Mr. Markle.

MR. MARKLE: I take an exception on that ground, your Konor.

Excuse me one minute, your Honor.

THE COURT: Surely.

BY MR. MARKLE:

Q You were asked whether or not you were afraid of Mr. Sams. I will ask you whether or not you were afraid of other persons on those premises during that time?

MR. GARRY: If your Honor please, that's beyond

the examination, and I will take an exception, if your Honor please.

THE COURT: Objection is overruled.

Exception may be noted for both parties.

THE WITNESS: I wouldn't say afraid — I mean afraid, but, you know — probably, you know —

MISS RORABACK: Well, I will object.

THE COURT: No, she hasn't --

MISS RORABACK: She said, "I wouldn't say afraid."

THE COURT: No.

Miss Francis, go ahead, complete your answer.

THE WITNESS: I would say that — that it was more of the way, you know, they came on, I mean the way they talked to you. They would shake you up a little bit.

BY MR. MARKLE:

Q And who would talk to you that way so it would shake you up?

A George Sams, and sometimes Ericks would raise her voice.

Q And who else?

A Just them two. Oh, Lonnie McLucas, he yelled all the time.

Q Anyone else?

A No.



MR. MARKLE: I have no further questions, your Honor.

THE COURT: Miss Roraback.

RECROSS EXAMINATION BY MISS RORABACK:

- Q Landon Williams ever raise his voice?
- A No.
- Q Rory Mithe raise his voice?
- A Not that I remember.
- Q When did you first see Alex Rackley tied to the bed?
- A Tuesday afternoon that I went on security duty.
- Q But you didn't see it happen on that Sunday, is that right?
 - A No. I didn't.
- O The last time you saw him Sunday, he was not tied to the bed, is that right?
 - A No.

MISS RORABACK: Thank you. I have no other questions.

THE COURT: Mr. Garry.

HR. GARRY: One minute, your Honor.

THE COURT: Surely.

MR. GARRY: I have no further questions.

THE COURT: Mr. Markle.

MR. MARKLE: No further questions.

THE COURT: You may step down.

(The witness was excused.)

THE COURT: Ladies and gentlemen, my watch is beyond that one. I don't think that's right.

We will recess for the day so that you may prepare to retire now, and remember my previous admonition:

Stay away from news broadcasts on either radio or television and any news stories in newspapers or periodicals concerning this case or the Panther Party or any of the principals of the Panther Party, anything even remotely connected with it and, of course, no discussions with anybody. Don't let anyone talk with you about this case or any of these subject matters and, of course, the thing I wind up with every night; wait until all the evidence is in before you start deciding these matters, and then you can discuss it.

Have a pleasant evening.

I will see you tomorrow morning at 10:00 o'clock. (The jury was excused at 4:20 P. M.)

THE COURT: All right, we will prepare to recess for the day.

Adjourn court, Sheriff, until tomorrow morning at 10:00 o'clock.

(The court adjourned at 4:22 P. M.)

EXHIBITS FOR THE STATE

\underline{NO} .	DESCRIPTION	FOR IDENT.	IN EVID	
¥			×	
13 E.	Statement of Haude Francis	1613		
灰良	Handwritten Statement of Haude	Francis 1669		

EXHIBITS FOR THE DEFENSE

(On Motion)

6	Report	fron	Wassalc	state	school	F 54	1606	
7	Report	from	Eastern Institut		ctional		1696	

WITTNESSES

Name	Direct	Cross	Redirect	Recross
DOCTOR JOHN DOMNALLY (by Hr. Garry) (by Hiss Roraback)		1572 1607		T.
(By Miss Borsback) (By Mr. Garry) (By Miss Borsback)	1615	1654 1661	1665	1675

NO. 15681

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

ERICKA HUGGINS

APRIL 22, 1971

NO. 15844

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

BOBBY G. SEALE

APRIL 22, 1971

Before:

HON. HAROLD M. MULVEY, Judge

& Jury (12)

Appearances:

ARNOLD MARKLE

State's Attorney, New Haven County 121 Elm Street

New Haven, Connecticut

CATHERINE G. RORABACK

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New Haven, Connecticut

Representing the defendant Ericka Huggins

CHARLES R. GARRY, ESQ.

341 Market Street

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- and -

DAVID ROSEN, ESQ.

865 Chapel Street

New Haven, Connecticut

Representing the defendant

Bobby G. Seale

COURT REPORTERS:

Arthur E. Moan, Jr. Walter Rochow

David Tilewick

MORNING SESSION

Thursday, April 22, 1971

(The court opened at 10:07 A.M.)

THE COURT: Good morning, everyone.

All set, counsel?

MR. MARKLE: Yes, your Honor.

THE COURT: All right.

Call the jury, Sheriff.

(The jury entered the courtroom.)

THE COURT: Good morning, everyone.

All right, Mr. Markle?

MR. MARKLE: Yes, sir. Do you want to get Mr. Sams, please.

GEORGE

SAMS, JR.,

of the Brooklyn Correctional Jail in Brooklyn,

Connecticut, having been called as a witness by

the State, was duly sworn and testified as follows:

DIRECT EXAMINATION BY MR. MARKLE:

- Q Mr. Sams, you entered a plea of guilty of second degree murder -- you are the George Sams that entered a plea of guilty of second degree murder in this case, is that correct?
 - A Yes, sir.
- Q And in 1966 you were the George Sams who was convicted of attempted breaking and entry of a business in the night season?
 - A Yes, sir.
- Q And, Mr. Sams, directing your attention to May 17th, of 1969, a Saturday, did you have occasion to come to New Baven?
 - A Yes, sir.
- Q And would you tell me where you were earlier in that day on May 17th, that Saturday?
 - A Oh, I was in New York City.
 - Q And with whom were you with?
 - A Mr. Landon Williams.
 - Q And did you have occasion to come to New Haven?

- A Yes, sir.
- Q And would you tell me how that came about?

A That was early in the evening. Landon Williams was doing some investigation --

MR. GARRY: I'm having difficulty hearing the witness, your Honor.

Q Can you raise your voice, Mr. Sams?

A Early that evening Landon Williams was having some investigation on the Party there, to straighten out Party policies. And early that day he asked me, did I think that Alex Rackley would wish to go to New Haven --

MISS RORABACK: Your Honor, I'm a little sleepy this morning. I'm going to object. These are conversations outside the presence of my client.

MR. MARKLE: I claim it on the conspiracy counts, your Honor.

THE COURT: Both conspiracies, in both cases?

MR. MARKLE: Yes, sir.

THE COURT: On that basis, I'll overrule the objection.

MR. GARRY: For both of us?

THE COURT: Exception may be noted.

MR. GARRY: For both of us?

THE COURT: Exception may be noted for both parties.





MR. GARRY: I want to have another objection, that the question that was asked and the answer that was given were certainly not responsive in its continuity. He may have answered it at one time and then made a lot of voluntary statements.

THE COURT: The question and answer may be read.

(The court reporter complied.)

THE COURT: I'll let the answer stand. Overrule the objection.

MR. GARRY: Exception.

BY MR. MARKLE:

Q What, if anything, had been said?

A I told him that I didn't know. Why didn't he ask him? He asked Alex, Alex say, "Yes," he would like to go.

MR. GARRY: If your Honor please, this is --

THE COURT: Do you have an objection?

MR. GARRY: Yes, your Honor.

THE COURT: Make it.

MR. GARRY: The objection is that the question and the answer are not responsive.

THE COURT: Would you read them.

(The court reporter complied.)

THE COURT: I think it is responsive. I'll let it stand. Objection overruled.



BY MR. MARKLE:

- Q What, if anything, then happened?
- A At that point we came to New Haven.
- Q Now, who came to New Haven, Mr. Sams?
- A At that time it was a fellow by the name of Chairman Brothers, Brenda, Rosemarie, a young lady by the name of Tina, Zayd, I, and Landon and Rackley.



- Q And how many cars did you come to New Haven with?
- A Two.
- Q Where did you go in New Daven?
- A To Warren Kimbro's house.
- Q And when you got there, what, if anything, did you do?
 - A We got there, we immediately let it be known --MR. GARRY: I'm sorry?
- A When we got there, Landon insediately let it be known --

MR. GARRY: If your Honor please, the question is, "What did you do?"

THE COURT: When you say, "you," are you referring to Mr. Sams?

MR. MARKLE: Yes, sir. I'll clear it up. Thank you, your Honor.

BY MR. MARKLE:

- Q Did you enter the house?
- A Yes.
- Q And who went into the house?
- A We all went into the house.
- Q The people you just named?
- A Yos.
- Q And whom did you see when you entered the house, the Kimbro house?

A Warren Kimbro, Lonnie, Ericka, Rory Hithe, and the rest of the sisters and brothers that was there.

Ω And did anyone say anything in your presence at that time?

A Yes, Landon was talking to the sisters and brothers there --

MR. GARRY: Just a --

Q Who was he talking to?

A He was talking to Warren Kimbro at that time, Ericka Huggins.

- Q And were you present?
- A Yes.
- Q What, if anything, was said?
- A It began --

MR. GARRY: I object to it on the ground my client was not present for this conversation.

THE COURT: What do you claim as to that, Mr. Markle?

MR. MARKLE: The two conspiracy counts.

THE COURT: On that basis I will overrule the objection.

MR. GARRY: And exception?

THE COURT: Exception may be noted.

THE WITNESS: Would you reread that?

(The court reporter complied.)



THE WITNESS: Immediately Landon began to let it be known to the members there that Alex Rackeley was suspicious of being an agent, or something, so we was to keep an eye on him at all times.

BY MR. MARKLE:

- Q And what, if anything, further happened at that time?
 - A At that time I went out of the house.
- Q And did you subsequently, did you come back to the house?
 - A Yes.
 - Q And what, if anything, happened then?
- A Later on that night, Brother Landon asked Sister Ericka, did she have a sister that would probably, you know, be able to get some information out of Alex.
 - Q And what, if anything, did she say?
 - A And she informed him, "Yes."
 - Q And what, if anything, then happened?
 - A And we both, Ericka and I, talked to Maude.
 - Q Maude, is that Maude Francis?
 - A Yes.
 - Q And what, if anything, was said to Maude Francis?
 - A Maude Francis was told --
 - MR. GARRY: I'm going to object to it on the ground it's hearsay as to Mr. Seale.



THE COURT: What do you claim?

MR. MARKLE: The conspiracy counts.

THE COURT: All right. For that limited purpose, overrule the objection.

MR. GARRY: Exception, your Honor.

THE COURT: Exception may be noted.

THE WITNESS: Would you reread that?

(The court reporter complied, reading the question of Mr. Markle and the answer, so much of it as was given.)

THE WITNESS: Maude Francis says, you know, she would, and Sister Ericka talked to her and told her --

BY MR. MARKLE:

MR. GARRY: Object to it upon the ground it's hearsay as to Mr. Seale.

MR. MARKLE: I'm making the same claim.

MR. GARRY: I have to protect the record.

THE COURT: You're making it only insofar as, you're making the claim only insofar as the conspiracy?

MR. MARKLE: As to Mr. Seale.

THE COURT: For that purpose, I'll allow it.

MR. GARRY: Exception.



THE COURT: Exception may be noted.

THE WITNESS: So, Sister Ericka began to talk to Maude, and asked her to check Brother Alex out, and to seduce him if she thought she could get some information from him, and I told her not to, if she didn't think she could get some information. If she could, so go ahead. So they went to bed.

BY MR. MARKLE:

- Q And that was that night, is that right?
- A Yes.
- Q Now, directing your attention to Sunday, May 18th, 1969, in the morning hours, what, if anything, happened?
- A I came downstairs and Sister Ericka was, was holding a political education class. And at that time she began to throw a book, a military Mae's book at Alex Rackley because he was sleeping.
 - Q And where was this?
 - A In the living room.
 - Q And what, if anything, then happened?
- A At that time Alex woke up, and he began to try and read the military Mao's book.

Q And what, if anything, then happened?

A So then I told Brother Rackley, you know, I said,
"I thought you couldn't read" --

MR. GARRY: I'm going to object to anything he told anybody as being hearsay as to Mr. Seale.

THE COURT: What do you claim?

MR. MARKLE: Same claim as to Mr. Seale.

THE COURT: Only on the conspiracy?

MR. MARKLE: On the conspiracy.

THE COURT: All right. On that basis I'll overrule the objection.

MR. GARRY: Exception.

THE COURT: Exception noted.

BY MR. MARKLE:

Q What, if anything, then happened?

A So, at that time I told Brother Alex that he could read. You know, he told me he couldn't read, told me he couldn't and I say, "Well, why are you reading that book?"

So he said he didn't want Sister Ericka and any of the other sisters and the brothers in the house to know he couldn't read. So, at that point I told him that he lying to the people. So Ericka told him he could read and so at that time he said he couldn't; he began to use profane language. And at that point I began to discipline Alex Rackley.

Q Now, when you say "discipline," what, if anything,

did you do?

- A I began to beat him.
- Q Then, what, if anything, happened?
- A At that point everyone began to move on him, beat him up.
 - Q And when you say everyone, who moved on him?
- A Warren Kimbro, I, Lonnie, Ericka Huggins, and the rest of the people in the house.
 - Q Then what, if anything, happened?

 MISS RORABACK: May I have that read back?

 (The answer of the witness was read by the court reporter.)
- A Alex began to show what we call "cowardly tendencies."

 He began to fear, and then we began to tell him, I mean,

 Sister Ericka began to tell him he could read. She gave him

 the Ten Point Platform and newspaper, and he began to read it.
 - Q Then what, if anything, happened?
- A At that point someone got an oak stick from somewhere and Warren began to beat him with it. And I took it from Warren and I began to beat him. And he read the whole Ten Point Program.
 - Q And then what, if anything, happened?
- A So right at that point I told Alex that, I suggested it's a possibility that he get out of the Black Panther Party. He said he didn't want to get out. So, at that point Warren



Kimbro asked him if he want to stay in? And he say, "Yes."

So, at that time I told him did he know what Party discipline was? So he say, "Yes." I told him I was going to give him three dollars, he was going to leave. He say, he didn't want to leave. So, at that point Warren told him, "Let's go to the basement."

- Q Then, what, if anything, happened?
- A Alex Rackley went to the basement.
- Q Now, who went to the basement with him?
- A Warren Kimbro, Lonnie McLucas, George Edwards, and about two or three more minutes Ericka and I went down.
 - Q And what, if anything, happened then?
- A At that point we began to interrogate Rackley and question him. And I ask him --

MR. GARRY: I'm going to object to the characterization of what, "we" did, unless he can designate who did the interrogation.

BY MR. MARKLE:

- Q Can you tell me who did what?
- A At that point I began to beat Alex, and Ericka and Warren and Lonnie, and George Edwards, we all participated in disciplining Alex Rackley.



(Page 1694 follows; no omission.)

BY MR. MARKLE:

Q When you say you all participated, what, if anything did the others do?

A Some stomped him, he was on the floor, some beat him up side the head. We have what you call a "mud hole," that means that all the members participate wholeheartedly in disciplining a member.

- Q And after this had occurred, what, if anything, then happened?
 - A Well, at that point, Rackley was tied up.
 - Q And where was he tied up?
 - A In the chair in the basement.
 - Q And what, if anything, then happened?
- A Well, at that point, we began to question him and ask him questions.

HR. GARRY: Again, I am going to ask, if your Honor please, if the editorial "we" go out, and -THE COURT: Clear it up, Mr. Markle.
MR. MARKLE: Yes, sir.

BY MR. MARKLE:

- Q Who started to ask him questions?
- A I began to ask him questions about, well, why was he lying to the sister, who was the informers in the Black Panther Party, and he said he didn't know, so then we began to discipline him again, and he began --



MISS RORABACK: Same objection, your Honor.

THE COURT: When he uses the word "we,"

Hr. Markle, try to determine who it is.

MR. MARKLE: Yes, sir.

BY MR. MARKLE:

O Mr. Sams, would you tell me what each person did at that time, as nearly as you can recall, or what each person said, as nearly as you can recall?

A At that point, I began to discipline him again, and Warren Kimbro hit him, George Edwards hit him, and Lonnie McLucas hit him, and he was beat again for a while. Then he began to state that some sisters, by the name of Janet, Stevie and Chairman Brothers and Akbar was agents, and he began to tell us that he didn't know anything about the New York 21 bust, and I told him he was a liar, he did, so he told me that he really didn't know, so I told him he was a liar again, and we began to beat him again. So he began to tell us what he seen at the police station and Chairman Brothers was seen being with the Culture Nationalist Army of US, and that they was agents of the Party, so we told him he was a liar again, and began to interrogate him again.

- Q When you say "we," who, again, interrogated him?
- A Lonnie McLucas, Warren Kimbro, George Edwards and I.
- Q All right. And who else was present, if anyone,







at that time?

- A Ericka Huggins.
- Q And then what, if anything, happened?
- A At that point, Ericka began to question him and told him he was a liar and he was a pig, and she knew he was a pig, and that was basically all that, and I began to see that he was getting beat so bad, he began to get busted up, because he got busted in the head with a stick, so I beside (phonetic) at that point it's a possibility for the cat to die, so I ordered him tied up again and asked to have some hot water brought down.
- Q Then what, if anything, happened? Who -- question withdrawn.

Who got the hot water?

- Ericka Huggins brought down the first bucket of hot water.
 - Q And was that the only bucket?
 - A No. Lonnie brought down the other one.
- Q And then what, if anything, happened with the hot water?
 - A I poured the water on him.
- Q And what, if anything, did the victim do at that time?
- A Well, at that time he began to quote more members in the Party as being agents.



MR. GARRY: May I have that read back?

THE COURT: It may be read back.

(The last answer of the witness was read by the court reporter.)

BY MR. MARKLE:

- Q Then what, if anything, happened?
- A So at that point, a tape was made.
- Q A tape was made?
- A Yes.
- Q And who participated in the making of the tape?
- A Warren Kimbro, I and Ericka Huggins hooked the tape up and began to make it to National.
 - Q And what was the purpose of the tape?
- A The purpose of the tape was that Landon Williams had informed me that any procedures, as necessary as that --

MISS RORABACK: I object.

MR. GARRY: I object to anything he was informed as hearsay and outside the presence of my client and --

MR. MARKLE: I will claim it.

THE COURT: Let him finish.

MR. GARRY: -- not only that, the word "informed" is a conclusion on the part of the witness.

THE COURT: You claim it on the conspiracy, as far as Mr. Seale?

MR. MARKLE: Conspiracy, your Honor.

THE COURT: The conspiracy counts?

MR. MARKLE: Yes, sir.

MISS RORABACK: I have an objection on behalf

of my client.

THE COURT: What do you claim?

MR. MARKLE: The same claim.

THE COURT: The conspiracy counts only?

MR. MARKLE: Yes, sir.

MISS RORABACK: The same exception.

THE COURT: Overrule the objections.

MR. GARRY: We should also have the time and place when this so-called conversation, if any, took place, your Honor.

THE COURT: Nail it down, Mr. Markle.

BY MR. MARKLE:

Q When did Mr. Williams tell you this?

A Could you re-read that, please?

THE COURT: Read the last question.

(The last question by Mr. Markle of the witness was read by the court reporter.)

THE WITNESS: Oh, he told me that earlier when we came down, that, you know, we was going to investigate on the Party and that tapes and things had to be made and reports had to be made up daily at all times.

MR. GARRY: If your Honor please, that's not responsive.

The question was -- I would like to know when

the time was.

THE COURT: Nail it down further.

He mentioned "when we came down."

BY MR. MARKLE:

- Q Was that when you came down to New Haven?
- A Yes, down to New Haven.
- Q And when -- what, if anything, were you told at that time? Had you finished telling me what Mr. Williams had told you?
 - A I don't understand you.
- Q Concerning what you were to do, concerning Mr. Rackley. You were telling me what your instructions were from Mr. Williams.
 - A Oh, at that time --

MISS RORABACK: I also have the same objection.

THE COURT: Overrule the objection.

MISS RORABACK: Exception, your Honor.

MR. GARRY: The same objection.

THE COURT: Exceptions may be noted for both parties.

BY MR. MARKLE:

- Q Can you tell me?
- A Yes. At that time, Williams had informed me that he felt that Alex was a pig.
 - Q And what is a pig, as known to you?

A A police agent or CIA agent, or some type of heavy informer that will infiltrate organizations.

Q What was it that he had told you to do?

A He told me at that time it s necessary to take procedures to find out was he an informer.

Q And --

MR. GARRY: May we have the conversation -the time and place and persons present?

THE COURT: Mr. Markle.

BY MR. MARKLE:

Q At that time, who else was present?

A At that time, who was present was Landon Williams and I.

Q And what, if anything, then occurred?

THE COURT: Where was it?

BY MR. MARKLE:

Q Where was it, as nearly --

A This was taken in New York City.

Q In New York City?

A New York.

Q And when you had questioned him and made the tape, what, if anything, did you do?

A I poured cold water on Alex Rackley, and he was sent upstairs for some medication.

Q And then what, if anything, happened?





- A Brother Warren and Sister Ericka informed me George Edwards was suspected as being an agent.
 - Q What, if anything, did you then do?
- A So, at that point, I began to question George Edwards and asked him was he an agent.
 - Q And where was this?
 - A Down in the basement.
 - Q And what, if anything, did Mr. Edwards say to you?
- A He said, "No, I am not an agent." So I told him -I said, "Tie him up," so they tied him up, and I slapped
 George, and George began to cry and said, "No, I am not an
 agent, I swear I am not an agent," so then I told him to make
 a tape on his life to National and to Brother Landon, and at
 that point, I let George go.
 - Q Then what, if anything, happened?
 - A We all went upstairs.
- Q And did there come a time when -- what, if anything, next nappened?
- A Later on, Warren Kimbro came and informed me that Alex Rackley had blew up.

MISS RORABACK: I object, your Honor.

I believe this is a conversation, and there is no indication it was in the presence of my client.

THE COURT: What is your claim, Mr. Markle?

BY MR. MARKLE:



- Q Well, who was present -- I will clear that up -- when you had this conversation with Mr. Kimbro?
 - A Just Mr. Kimbro and I.
 - Q Just Mr. Kimbro and you?
 - A Yes.
 - Q And you had --

THE COURT: Who are you claiming this against?

MR. MARKLE: I'm not claiming the conversation.

I'm going to ask what he did as a result of it.

THE COURT: All right.

BY MR. MARKLE:

- Q What, if anything, did you do as a result of the conversation?
 - A Went upstairs.
 - Ω And where did you go?
 - A Upstairs in the bedroom, one of Kimbro's bedrooms.
 - Q And who was there, if anybody?
 - A I, Warren Kimbro, Ericka and Lonnie.
- Q And what, if anything, was done at that time, or said?
- A Rackley had blew up. He had swolled terribly. He was blew all up, and I suggested to Warren that he had to go to the hospital. At that time, Rory Hithe and Landon Williams walked in and told me I was crazy, they said we were going to hold him until Chairman Bobby come.
 - Q And what, if anything, was done at that time?
 - A so at that point, Landon --

MR. GARRY: If your Honor please, I am going to ask that what Landon Williams said go out.

He relates to these conversations without my having an opportunity to make an objection. I move to strike the conversation, that what Landon said about Bobby Seale go out, on the grounds it's hearsay and outside the presence of Mr. Seale.

THE COURT: How do you claim it, Mr. Harkle?



MR. MARKLE: The conspiracy, your Honor.

THE COURT: For that purpose, I will overrule the objection.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

BY MR. MARKLE:

- Q What, if anything, then happened?
- A Would you reread that, please?

THE COURT: Read everything from the last question on -- the last question and the answer, so far as it went.

(The last two questions of Mr. Markle of the witness, and the answers of the witness, were read by the court reporter.)

THE COURT: All right.

THE WITNESS: At that point, Landon began to jump on me and asked me why was he interrogated, and I told him, you know, "It was your order, it wasn't mines," so I left and went downstairs.

MR. GARRY: If your Honor please, I am going to object to any conversation that was outside the presence of Mr. Seale.

THE COURT: How do you claim it, Mr. Markle?

MR. MARKLE: Same claim.

THE COURT: Conspiracy counts?



MR. MARKLE: Yes.

THE COURT: Overrule the objection.

Exception may be noted.

MR. GARRY: I take exception.

MR. MARKLE: Might the answer be read, your

Honor?

THE COURT: The answer may be read.

(The last answer of the witness was read by the court reporter.)

BY MR. MARKLE:

- Q What, if anything, then happened?
- A So about ten minutes later, Landon came down.
- Q Did anyone else come down at that time?
- A Yes. Warren Kimbro, I and Rory Hithe.
- Q All right. And what, if anything, happened?
- A We went to the basement. We just -
- O Go ahead.
- A -- listened to the tapes, and Landon told me just -MISS RORABACK: I object, your Honor.

I understand my client isn't pres nt in any of this conversation.

THE COURT: What do you claim?

MR. MARKLE: The conspiracy, your Honor.

THE COURT: Only on the conspiracy?

MR. MARKLE: Yes, your Honor.



THE COURT: Both cases?

MR MARKLE: Yes, sir.

THE COURT: All right, on that basis, I will overrule the objection.

MISS RORABACK: Exception.

MR. GARRY: Exception.

THE COURT: Exception noted for both parties.

MISS RORABACK: Thank you, your Honor.

BY MR. MARKLE:

- Q What, if anything, happened in the basement?
- A And he told me he just kidding, and he didn't want Alex to know that orders was coming from National.
 - Q And then what happened --

THE COURT: Orders coming from where?

THE WITNESS: From National.

THE COURT: National.

BY MR. MARKLE:

- Q What is National?
- A National is the headquarters of the Black Panther Party.

MR. GARRY: Just a minute, if your Honor please.

I am going to object to the fact that there is

no foundation here as to whether he knows what

National is or anything.

THE COURT: Ask him if he knows.

BY MR. MARKLE:

- Q Do you know what National is?
- A Yes, it's the Central Committee and Headquarters of the Black Panther Party is in Oakland, California.
 - Q And --

MR. GARRY: Just a minute. I've got another objection.

There is no showing here that Landon Williams



knows what National is or whether he knows what National means. These are all assumptions that have to be bridged.

THE COURT: Overrule the objection.

MR. GARRY: I take an exception.

THE COURT: Exception noted.

BY MR. MARKLE:

Q What, if anything, then happened?

A At that point, we began to listen at the tapes, and Landon begin to show me an indictment slip of the New York 21, then he began to inform me that it was true --

MISS RORABACK: The same objection, this is all outside the presence of my client.

MR. MARKLE: Same claim.

THE COURT: The conspiracy counts?

MR. MARKLE: Yes.

THE COURT: Both cases?

MR. MARKLE: Yes.

MR. GARRY: I object, too.

THE COURT: Overrule the objections on that

basis.

Exceptions may be noted for both parties.

BY MR. MARKLE:

Q What, if anything, then happened?

MR. GARRY: I have another objection, if your



Honor please, as to this business of National and so forth.

You cannot prove agency by the alleged agents themselves, and when he says that National did this and National did that, this is purely self-serving, and an agent can't boost himself, make himself an agent, by his own statement. For that reason, I have an objection.

THE COURT: I will retain my ruling.

Exception may be noted.

MR. GARRY: Thank you.

THE COURT: I already noted an exception.

BY MR. MARKLE:

Q What, if anything, then happened?

A We made the tapes, and Landon began to tell me and show me about an indictment slip --

MR. GARRY: Just a minute, now.

"He began to tell me and show me" is again objectionable upon the grounds that it's hearsay as to Mr. Seale.

THE COURT: He hasn't related any conversation.

MR. GARRY: He said, "He began to tell me."

THE COURT: He hasn't related any conversation.

He said, "He began to tell me and to show me."

MR. GARRY: Well, I don't know that I am to



wait until he has given a conversation before I object.

THE COURT: I think you have to.

All right, Mr. Markle.

BY MR. MARKLE:

Q He began to show you and tell you about?

A The New York 21, that it was true that the New York 21 was going to blow up --

THE COURT: Is this a conversation?

MR. MARKIE: I will clear it up.

BY MR. MARKLE:

Q Is this a conversation you had with Mr. Williams?

A No. He just stated that fact to them.

Q But he did say it?

A Yes.

Q All right.

THE COURT: You claim it?

MR. MARKLE: I claim it on the conspiracy counts, your Honor.

MR. GARRY: It could hardly be on the conspiracy counts when he drags in the New York 21 into this picture.

THE COURT: On that basis, I will overrule the objection.

Exceptions may be noted for both parties.

BY MR. MARKIE:

Q What, if anything, then happened?

MR. GARRY: I also make an objection of hearsay, your Honor.

THE COURT: I understand.



end tk.

(Page 1713 follows; no omission.)

BY MR. MARKLE:

Q You were having this conversation -- you were having a conversation with Mr. Williams in the basement?

A Uh-huh.

Q And you told me that Rory Hithe was present and Warren Kimbro?

A Yes.

Q And what, if anything, did Mr. Williams say to you?

A He began to show me a factor of why Alex was an agent because of the New York 21 indictment slip. There was someone by the name of Alex McKeever or Withroon (phonetic) in there and he claimed this was Alex Rackley, and it was true that the New York 21 was going to blow up the places at that time and Alex Rackley was supposed to be there and he didn't show up and he was supposed to have some type of mission at the police department, and I asked him where he got his information from. He said the Central Staff in New York City, and all of them confirmed the fact that Landon Williams was an agent. (Sic.)

MISS RORABACK: Your Honor, this is hearsay upon hearsay upon hearsay. Mr. Sams is recounting an alleged conversation with Mr. Landon Williams of something allegedly told to him.

THE COURT: What is your claim, Mr. Markle?

MR. MARKIE: I claim it on the conspiracy.



It is what he was told. This hearsay on hearsay has no validity here.

THE COURT: You are claiming it on the basis of what Williams told Same?

MR. MARKLE: That's right, concerning the purpose of the interrogation and why he was there.

THE COURT: Mr. Garry.

MR. GARRY: I don't know of any law in the world that permits this kind of a wide scope on the part of a particular narrator who says that somebody else, somebody else, somebody else told me and repeats it as though it was a gospel fact.

THE COURT: I will overrule the objection.

Exception may be noted.

You are claiming this on the conspiracy counts only, in both cases?

MR. MARKLE: Yes.

THE COURT: All right.

MR. MARKLE: Might the answer be read now so the witness can understand what context he is in.

THE COURT: All right, the answer may be read.

(The answer of the witness was read by the court reporter.)

BY MR. MARKLE:

Q That who was an agent?

- A Alex Rackley.
- Q And what, if anything, did you say as a result of that?

A At that point, I just looked at him, that Alex was an agent.

MR. GARRY: May I have that asswer read back.

THE COURT: Read it, Mr. Reporter.

MR. GARRY: May I have the question and answer, if your Honor please?

THE COURT: Yes.

(The last question by Mr. Markle and the answer of the witness were read by the court reporter.)

BY MR. MARKLE:

Q And what, if anything, did you say?

A Oh, at that point, I just, you know, looked at him, that's all.

MR. GARRY: Asked and answered.

- Q Did you have any further conversation at that time?
- A Yes, I explained to him that I don't think that confirmed the fact that Alex was an agent.
 - Q What, if anything, did Mr. Williams --

MR. GARRY: I didn't get that answer.

May I hear it back?

THE COURT: It may be read, the last enswer.

(The answer of the witness was read by the

court reporter.)

BY MR. MARKLE:

Q What, if anything, did he say to you when you said that?

MISS ROBABACK: Same objection. Conversation outside the presence of my client.

THE COURT: You claim it only --

MR. MARKLE: Yes.

MR. GARRY: If the Court please, I would like to know persons who are present at this particular conversation where Landon is telling him all these things.

THE COURT: I think it was stated at the beginning, but ask him, anyway.

BY MR. MARKLE:

- Q Who was present at that time?
- A Rory Hithe, Landon Williams, Kimbro and I.
- Q Then what, if anything, was said?
- A So we talked about the coming of Chairman Bobby, and then I left.
 - Q Then you left?
 - A Yes.
- Q And what, if anything, was said about Mr. Seale's coming?

MISS RORABACK: Same objection, your Honor.

THE COURT: Same ruling.

Same claim?

MR. MARKLE: Yes.

THE COURT: Same ruling.

MR. GARRY: Exception for both of us.

THE COURT: An exception may be noted for

both parties.

THE WITNESS: Would you restate that, please?
BY MR. MARKLE:

Q What, if anything, was said about Mr. Seale coming?

A He explained to me, at that point, that Chairman Bobby was coming in town and he wanted to see Alex again, that's all.

Q Then what, if anything, happened?

A Everyone began --

MR. GARRY: Can I have that read back?

THE COURT: The last answer may be read back.

(The answer of the witness was read by the

court reporter.)

BY MR. MARKLE:

Q Then what, if snything, happened?

THE COURT: I don't understand that. You better straighten it out. Who is talking? "He wanted to see Alex again." Who is, "he"?

MR. MARKLE: All right.

BY MR. MARKLE:

- Q Who said that?
- A Landon Williams.

THE COURT: Who wanted to see Bobby again -- see Alex again?

THE WITNESS: Landon was going to see Alex again. He was going to hold him until Chairman Bobby came, because Chairman Bobby wanted to see Alex.

BY MR. MARKLE:

- Q And that's what you meant by "he"?
- A Yes.
- Q And then what, if anything, happened?
- A We went up and went up to Adam Clayton Powell's conference.
 - Q Then what, if anything, happened?
 - A Later on, Chairman Bobby came to New Haven.
 - Q And was that on Monday, the 19th of May?

 MR. GARRY: It's leading and suggestive, if
 your Honor please.

THE COURT: It is.

BY MR. MARKLE:

- Q When did he come, if you know?
- A It was on a Monday.

MR. GARRY: Tell us when the date is.

He has already given him the lifeline.

THE COURT: You made an objection. I ruled on it. You claimed it's leading. I said it was.

BY MR. MARKLE:

- Q When, if you know, did Mr. Seale come to New Haven?
- A He came Monday.
- Q And whether or not you saw him?
- A Yes.
- Q Where did you see him?
- A Upstairs in the room with Alex Rackley.
- Q And what time was that?
- A That was around about 12:30, 1:00 o'clock, after the rally.
 - Q What rally is that?
 - A The rally held at Yale University.
 - Q And did you attend that rally?
 - A No.
- Q What, if anything, did you do while that rally was on?
- A At that time, I was on security at the house with Alex Rackley and a couple of more people in the house.
- Q When you say with Alex Rackley, do you mean he was standing security with you?
 - A No. I was in the house where he was.
 - Q And where was Mr. Rackley at this time?
 - A Upstairs, tied up.
 - Q Tied up where?
 - A In the bed.







- Ω And what, if anything, happened -- then you said it was about 12:00, 12:30 -- what time?
 - A About 12:30, 1:00 o'clock.
 - Q What happened?
- A Chairman Bobby came into the house and came upstairs and he came into the room and I introduced him to --

MISS RORABACK: I will object now to any conversations outside the presence of my client.

MR. MARKLE: I'm sorry. I will try to clear it up.

BY MR. MARKLE:

- Q Who was present at that time?
- A Landon Williams, Rory Hithe, June Hilliard, Ericka Huggins and I and Warren Kimbro.

THE COURT: I will overrule the objection.

BY MR. MARKLE:

- Q What, if anything, happened?
- A Chairman Bobby came upstairs and came into the room.
- Q Now, who was in the room with you at that time? "
- A Warren Kimbro, Landon Williams, Rory Hithe and I.
- Q And what, if anything, was said?

MISS RORABACK: Now, I will object, your Honor, on the grounds --

MR. MARKLE: I claim it on the conspiracy and the aiding and abetting. They are all present in the



house.

MISS RORABACK: As I understood his last answer, the persons present in that room were Warren Kimbro, Landon Williams, Rory Hithe and George Sams, plus Bobby Seale, and I claim that having said that, that it's outside of any conversations in that room — any conversations in that room are outside the presence of my client and are hearsay as to her, and I object to it.

THE COURT: What was the answer a couple of minutes ago to, I think, the question you put,
"Who was upstairs?" Did yougut that question?

MR.MARKLE: I think he indicated that when he came in the house, all of those people --

MR. GARRY: If your Honor please, I am going to object to it. Whatever the answer is -- I don't mind the record being read back, but I don't want --

MR. MARKLE: I thought his Honor addressed a question to me.

THE COURT: I did.

MR. GARRY: And I object to it.

THE COURT: Insofar as this last answer is concerned, you are claiming it insofar as to the abetting count and the conspiracy counts, is that



correct?

MR. HARKLE: Correct.

THE COURT: Sustain the objection as to the abetting count.

Overrule it as to the conspiracy counts, as far as Mrs. Huggins is concerned.

MR. MARKLE: Might an exception be noted.

MISS RORABACK; And an exception to me, too.

THE COURT: And an exception for you, too.

BY MR. MARKLE:

- Q Then what, if anything, happened in that room?
- A Chairman Bobby walked over and looked at Rackley, and Landon took all the gags out of his mouth and the taps and stuff off his face, and he asked Rackley, was he a pig, so Rackley said, "No, sir, I'm not a pig." So he began to check the clothes hangers that was around his neck and the tape and all the stuff that was on Rackley, and he walked over toward the back of the room, and Brother Landon went over and asked him, what was we to do with him. Chairman Bobby seemed to get an attitude. "What do you do with a pig? A pig is a pig. Do away with him. Off the motherfucker."
 - Q Then what, if anything, happened?
 - A Then he --

MR. GARRY: Can I have that answer read?

THE COURT: The answer may be read.





(The answer of the witness was read by the court reporter.)

BY MR. MARKLE:

Q What, if anything, did you then do?

A lie went out and used the bathroom for about — I guess about ten minutes and he came out and told everyone — Landon ordered everyone to get rid of the fingerprints in the bathroom, anything that Chairman Bobby had probably touched, and we all went downstairs —

MR. GARRY: May that be read.

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

THE COURT: Who used the bathroom? Who are you talking about?

THE WITHESS: Bobby Seales.

BY MR. MAKLE:

Q What happened when you went downstairs?

A He began - we went out in the front of the house and he began to tell me how I was a field Negro.

MISS RORABACK: I object again on the grounds that this is --

THE COURT: Tell us who was there.

BY HR. HARRLE:

Q Who was there, Mr. Sams?

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- A Landon Williams and Chairman Bobby and I.
- Q What, if anything, did he say to you?

THE COURT: What?

MR MARKLE: My claim is on the conspiracy.

THE COURT: Only on the conspiracy.

As far as Mrs. Huggins is concerned, it's admitted only on the conspiracy.

THE WITNESS: He began to tell me that I was a field Regro and he told Landon that I was a righteous brother, and he left.

MR. GARRY: May I have that.

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

BY MR. MARKLE:

- Q Whether or not you saw him again?
- A About -- I guess about 5:00 or sometime early that next -- that same morning.
 - Q What, if anything, happened at that time?
 - A He came in to make a phone call.
 - O When did he come in?
 - A Back to Warren Kimbro's house.

MR. GARRY: Unless he saw it himself, unless we are going to depend on his hearsay information --

MR. MARKLE: He said he saw him.

THE COURT: The question was, "Whether or not you saw him again?" I believe that's what I thought it was.

Would you read that part back, Mr. Reporter.

(The last two questions by Mr. Markle and the last two answers of the witness were read by the court reporter.)

BY MR. MARKLE:

- Q Did you see him come in?
- A Yes.
- O Where did he go?
- A He west in the kitchen.
- Q And what, if anything, did he do?
- A He sit down and he tried to get a phone call or



something. I didn't pay much attention to it.

- Q Then what, if anything, happened?
- A He went out.
- O Then what, if anything, happened?
- A Phone call came back, and a note was tooken.
- () A note was taken?
- A Yes.
- Q By whom?
- A I think it was it was Frances -- Peggy or Ericka, one of the two took the note.

MR. GARRY: I am going to object to this.

It's conjecture.

THE COURT: It goes to the weight.

I will overrule the objection.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

BY MR. MARKLE:

- Q When Mr. Seale came into that kitchen to use the phone, whether or not you saw anyone else in the kitchen?
- A In that kitchen, it was I, Landon Williams and Rory Hithe, Ericka, Peggy, Maude. That's about all I seen.
- Q And after that telephone message came in, what, if anything, was done with that message, if you know?
 - A Excuse me. Someone else was present.
 - O Who else?



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- A Loretta Luckes.
- O Loretta?
- A Yes.
- Q What, if anything, then happened?
- A Her and Lonnie took a note.
- Q Co where, do you know?
- A I think it was a note to try and catch up with Chairman Bobby.
 - Q And who gave him the note, if you know?
 - A Ericka Huggins gave him the note.
 - O Then what, if anything, happened?
 - A They left.
 - O Did you see him later?
 - A I seen him go out the door, yes.
 - Q And when did you next see Mr. McLucas?
 - A Later on that evening.
 - Q And who was present at that time?
 - A I, Warren Kimbro, Rory, Landon and Ericka.
 - Q And what, if anything, took place at that time?
 - A Sit around all that day and later --

MR. GARRY: I can't hear him with his hand over his mouth.

THE COURT: Would you keep your hand away from your mouth, Mr. Sams.

Would you read that last answer, Mr. Reporter.



(The answer of the witness was read by the court reporter.)

BY MR. MARKLE:

Q What, if anything, happened?

A Brother Landon came in and informed us to get ready and start --

MR. GARRY: I will object.

MISS RORABACK: I will object.

THE COURT: What is your claim?

MR. MARKLE: Claim it on all counts as to all defendants, your Honor.

THE COURT: The conversation made not in the presence of either of the defendants?

MR. MARKLE: Correct, on the theory of aiding and abetting.

MISS RORABACK: If your Honor please, I know of no law that --

THE COURT: I will sustain the objection on that basis.

Only as to the conspiracy counts --

MR. MARKLE: I believe he said that Ericka Huggins was present.

MISS RORABACK: That was not clear as to this conversation.

THE COURT: Find out.



MISS RORABACK: I don't think it's been tied down.

BY MR. MARKLE:

Q At the time of this conversation, was Mrs. Huggins present?

A Yos.

THE COURT: I will overrule the objection, insofar as Mrs. Huggins is concerned.

I will sustain it insofar as Mr. Seale is concerned, except with respect to the conspiracy counts.

MR. GARRY: Exception.

THE COURT: Exception to both parties.



BY MR. MARKLE:

- Q What, if anything, was said at that time?
- A We went out. We went out.
- Q Went out where?
- A To take a ride.
- Q Who went out?
- A Landon, Rory, I and Ericka.
- Q What time was this?
- A That was about 8:00 sometime at night, sometime.
- Q And where did you go?
- A We went somewhere and parked the car and began to talk.
 - Q And what was the conversation?
 - A The conversation was that the Party --

MR. GARRY: I am going to object to any conversation. It doesn't involve my client being present, and as being hearsay.

THE COURT: What do you say?

MR. MARKIE: I claim it on the conspiracy.

THE COURT: I will make the same ruling.

On that basis, I will overrule the objection.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

BY MR. MARKLE:

Q What, if anything, was said at that time and by whom?

A At that point, Landon Williams began to get on Sister Ericka about New Naven not being together and the rest of New York not being together, because she was from National and she knew Party policies, and why she wasn't up-to-date and the parties wasn't up-to-date and she began to explain, you know, the situation that she was in.

Q What, if anything, did she say?

MR. GARRY: Just a minute.

May I hear the answer back, because I have an objection to strike.

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

MR. GARRY: I don't understand whether this
is a conversation or is this his conclusions of
what he thought Mr. Landon said, and on the basis
of that and the fact that it is outside the
presence of Mr. Seale, I ask that it be stricken. (Sic.

THE COURT: I will overrule your objection.

I have already ruled that this applies insofar as your client is concerned only insofar as the conspiracy counts.

MR. GARRY: And I take an exception.

THE COURT: Exception.

BY MR. MARKLE:

Q Had you finished what Mrs. Huggins had said and what Mr. Landon Williams had said?

A She began to explain that there was a lot of Cultural Nationalist people and the people wasn't together and the people's mind weren't together and the East Coast people were kind of odd and didn't know Party policy, and half of them was Cultural Nationalist Africans there.

MR. GARRY: I am going to ask that that entire answer be stricken. It can't be any part of any conspiracy that is charged here as to whether there is Afro-Nationalists or Culturalists or Pork Chop Nationalists. None of this is involved in the case.

THE COURT: I will overrule the objection.

MISS RORABACK: Might the answer be read back?

THE COURT: You want it read back?

MISS RORABACK: Yes.

THE COURT: It may be read back.

(The answer of the witness was read by the court reporter.)

BY MR. MARKLE:

- Q What, if anything, then happened or was said?
- A At that point, Landon began to ask her what she think of Warren Kimbro and the rest of the people there.
 - Q What, if anything, did she say?

MR. GARRY: I am going to object to that, too.

It is outside of the presence of Mr. Seale. Not
only that, this is not anything that can go to any
part of this alleged charge against my client.

THE COURT: You are making the claim only on conspiracy counts?

MR. MARKLE: Yes.

THE COURT: I will overrule the objection.

An exception may be noted.

BY MR. MARKLE:

Q What, if anything, was then said?

A Then she began to explain the fact that Warren Kimbro used to work for the Federate Program and that he was a together brother and he was working, and Landon asked her about Rackley and she thought he was a pig, so at that point we got high and we left and came back to the house.

MR. GARRY: May I hear that answer back?

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)





Q When you say "high" what do you mean by that?

THE COURT: Wait a minute, hold it. All right.

BY MR. HARKLE:

- Q What do you mean, you got "high"?
- A We smoked some marijuana.
- O Then what, if anything, happened?
- A We came back to the house.
- Q Then what, if anything, happened?
- A Later on that, that night, this was the next morning, Brother Landon came in and jumped on me. And asked me why Alex wasn't ready?

MISS RORABACK: Now, I'll object, your Honor.

I take it that Landon came in at -

THE COURT: This is the next morning?

MR. MARKLE: It's late that night or the next

morning.

THE COURT: Well, find out when it is, and who was there.

BY MR. MARKLE:

- Q Who was there when Mr. Williams came in?
- A Ericka, Lonnie, Peggy, Loretta, Maude, Rory, I, Kimbro.
 - Q And where did this conversation take place?
 - A Right there, in the living room.
 - Q Of whose house?

- A Warren Kimbro's.
- Q And when was this, as nearly as you can recall?
- A Around about 2:30 in the morning, somewhere around there.
 - Q What, if anything --

MR. GARRY: May I have that read. I didn't hear the murble.

(The court remorter read the pending answer.)
BY MR. MARKLE:

O And what, if anything, was said?

MR. GARRY: I am going to object to upon the ground my client is not present, and this is clearly hearsay.

THE COURT: You're claiming it only insofar as Mr. Seale is concerned only on the conspiracy counts?

MR. MARKLE: Right.

THE COURT: Overrule the objection. Exception may be noted.

BY MR. MARKLE:

- Q What, if anything, was said?
- A Well, he began to get on me, asking me why Alex wasn't ready. I told him he didn't order me to get him ready. And he told me that I was supposed to get him ready. So, at that point, Landon began to tell all the sisters and

brothers to get Alex ready. And he ordered Kimbro and Lonnie to get some Jark clothes on him.

- Q And what, if anything, happened?
- A We began to discuss them what was the place to take, take Alex.
- Q And what, if anything, was said at that time and by whom?
- A Then Landon and Rory asked Lonnie, did he know any place? And he said, "No." And he asked Kimbro, and Kimbro said, "Yes." So we began to try and call some people up in Eartford. And Rory asked, why wasn't George Edwards there, he also can go.
 - Q He also what?
 - A He also can go.
 - O Yes.
- A So, at that point, Lonnie got on the phone and called Hartford, and asked for some political power and he was jumped on.

MR. GARRY: Just a minute. This is all hearsay. He obviously can't know what the conversation was on the telephone, and it's clearly inadmissible.

THE COURT: What do you claim about the telephone conversation?

MR. MARKLE: He had heard what he related

Mr. McLucas say. He hasn't given the other side of

the conversation.

THE COURT: I don't know whether he knows that. Find out.

BY MR. MARKLE:

- O Were you in the same room when Mr. McLucas made that call?
 - A Yes, it was in the kitchen.
 - Q Did you hear his side of the conversation?

A Yes; I heard him asking the fellow on the phone for squee political power, and that's when he was jumped on, about that.

THE COURT: You're claiming these, this conversation so far as Mr. Seale is concerned only on the conspiracy count?

MR. MARKLE: Yes, sir.

THE COURT: I'll overrule the objection.
Exception may be noted.

THE WITNESS: He was jumped on at that point.

BY MR. MARKLE:

- BY Q By whom?
 - A By Warren Kimbro for saying that.
 - Q And what, if anything, happened?
- A At that point the fellow told him he didn't have any political power. So he hang up and then --

MISS RORABACK: I'll object.



THE COURT: That end of the conversation may go out.

THE WITNESS: At that point, he made some more phone calls, about trying to find a car. But before then Landon was telling Warren that he could take his car, and someone at that point began to say that the police knew Warren's car.

BY MR. MARKLE:

- Q And what, if anything, then happened?
- A Warren called the fellow up by the name of Kelly to borrow his car.
 - Q And did he secure a car?
 - A Yes, he got a car.
 - Q And what, if anything, then happened?
- A Kelly came in, and with his car. And Lonnie went around the front to put it around the back. And I and Kimbro went upstairs. And Landon was taking Rackley out the bad, and the sisters was undressing him --

MISS RORABACK: I'll object. This is outside the presence of my client.

MR. MARKLE: This is what he saw. This is not conversation.

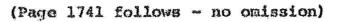
THE COURT: Yes, I didn't hear any conversation.
BY MR. MARKLE:

What, if anything, did you observe when you entered



that bedroom?

A It stanked.



Q And what, if anything, was anybody doing?

A The sisters all there was untying Rackley, and trying to get him clothes. And Landon was bringing him out by the clothes hanger, by his neck, you know. I had a .45. And Warren had a -- a 30 -- odd -- 6, or Rory, one of the two.

Q Is that a rifle?

MISS RORABACK: May that be read?

(The answer of the witness was read by the court reporter.)

- A And we began to guide Alex downstairs.
- Q And when you say the room smelled, can you describe the smell at that time?

A Well, Brother Landon had ordered everyone not to feed Alex. Alex wasn't fed --

MR. GARRY: Objection. That's not responsive.

THE COURT: I sustain the objection. The

question was, "Can you describe the smell"?

A Oh, the smell? The smell, Alex didn't use the bathroom the whole time he was interrogated, at that point on up
to the point wherein he was tied up in the bed, so the smell
there was very, -- had urinating smell. The man hadn't -bowels hadn't removed, his bowels was moved in the bed. It
was just outrageous smell in the room. It stank like the
"plumbing company."



- Q And then he was removed, is that right, from the room?
 - A Yes.
 - Q And where was he taken?
- A He was taken downstairs through the kitchen. And everyone said, "All power to the people." And Landon led him out.
 - Q Now, who was in the kitchen as he went out?
- A Ericka Huggins, Peggy, Rory, Landon, Maude, Loretta, the rest of the sisters and brothers, Lonnie --

MR. GARRY: I ask that the "rest of the sisters and brothers" go out. He was asked who was there.

THE COURT: It may go out. Name all the people you can.

THE WITNESS: Name all the people I can?
BY MR. MARKLE:

Q Who were in the room at that time.

THE WITNESS: Can you repeat those I named?

(The court reporter complied.)

- A Kimbro, I, the baby -- that was all that I can remember of, that part.
 - Q And what, if anything, happened?
- A Landon, Landon took the gun and the rifle and led

 Rackley -- took a coat hanger, and Lonnie took a coat hanger

 and throwed it over Rackley's back so the coat hanger wouldn't



be seen, and all the tape that was around him, his hands, and led him out to the car. And that was Rory Hithe, Landon, and Warren Kimbro and I. And Lonnie was bringing the car around the front.

MR. GARRY: Your Honor, may I have that read back?

(The court reporter read to "led Rackley -took a coat hanger and Lonnie took a coat hanger
and throwed it over Rackley's back so the coat
hanger" --)

THE WITNESS: No --

THE COURT: Wait until he finishes and then you can correct what you want.

(The court reporter read the complete answer of the witness.)

BY MR. MARKLE:

Q Now, do you want to correct that, about the coat hanger?

A Yes. That there, strike that. At that point, when Landon was bringing him out, someone took the coat, the Safari coat and throwed it over him; because it wasn't Lonnie McLucas at that time, Lonnie McLucas was bringing the car around the front. It was Lonnie McLucas' Safari jacket that was thrown over. I made a mistake at that point.

Q What, if anything, then happened with Mr. Rackley?

- A He was led out of the house.
- Q Where was he taken to?
- A To a swamp.
- Q Well, before he was taken to the swamp what, if anything, happened with the car?

A The car door was open. Rackley got in, I got in second, Warren got in, got in last. And Landon handed me the .45.

- Q Then, now, who was driving that vehicle?
- A Lonnie.
- Q And who was seated in the passenger's seat next to Mr. McLucas?
 - A Warren Kimbro.
 - Q And who was seated in the rear of the car?
 - A I was, and Rackley.
 - Q And what, if anything happened then?

A Rackley, I took the gag and stuff out of his mouth and I gave him a cigarette. And I got ready to light up a marijuana. He told me that the police may see it, put it back.

MISS RORABACK: If your Honor please, we're going to conversations far outside the presence of my client.

THE COURT: Are you claiming these only insofar as the conspiracy counts? And that's both parties?





MR. MARKIE: Yes, sir.

THE COURT: All right. On that basis I'll overrule the objection. Exceptions may benoted to both parties.

BY MR. MARKLE:

Q What, if anything, did Mr. Rackley say?

A So he told me that the police may see us. So I stuck it back in my pocket. And so then he asked, wasn't that Chairman Bobby that gave the order --

MR. GARRY: Now, just a minute, I'm going to object to this conversation as being outside the presence of Mr. Seale, and certainly he can't claim that this is part of the conspiracy, this conversation with Mr. Rackley.

THE COURT: You're claiming it on the conspiracy counts?

MR. MARKLE: Yes, I will.

THE COURT: I'll overrule the objection on that basis. Exceptions may be noted.

MR. GARRY: For both of us?

THE COURT: For both parties. Well, I already, just a moment ago, made the same ruling on this conversation in this automobile as they were traveling to wherever they were traveling to.



BY MR. MARKLE:

Q Can you relate to me what Mr. McLucas said?

A So he asked me, was that Chairman Bobby that gave the order up in the room. I told —— I told him "No." And Warren told him "No." So, at that point, he asked me, was I going to kill him? I told him, "No, I wasn't going to kill you." He asked me, did I think he was a pig? I told him, "No, I didn't think he was a pig." So, at that point we kept riding, and I asked him what would he do if we let him go? He said he'll go back to Florida. I told him, in the condition he was in he couldn't walk a mile. So then we say, you know, that we'll be going to let him go. I told him, yes, we was going to let him go. So, at that point we pulled over to the swamp.

- Q All right. Then what, if anything, happened at that point?
 - A I handed the gun to Kimbro.
 - Q Who was driving the vehicle at that time -- before?
 - A Sir?
- Q Who was driving the vehicle just before you stopped at the swamp?
 - A Lonnie McLucas.
- Q What, if anything, did he do at that point, after you stopped the car?
 - A I don't understand.

- Q Did you have a conversation with Mr. McLucas at that time?
 - A No.
 - Q What, if anything, happened then?
 - A We got out the car.
 - Q Yes?
- A And Lonnie had a flashlight. And we began to lead, lead Rackley down the swamp, and Kimbro told him, "This way," you know, "you walk through this way."

MR. GARRY: I'm going to object, what he told
Lonnie --

THE COURT: You are claiming it on the same basis, on the conspiracy counts?

MR. MARKLE: Yes.

THE COURT: Objection. Exception may be noted for both parties.

BY MR. MARKLE:

- Q Who did Kimbro tell that to?
- A Alex.
- Q And what, if anything, then happened?
- A After I gave the gun to Kimbro, and he had walked down the swamp, I told him, you know, "Ice him, that was National's orders," and we turn around --

MISS RORABACK: The same objection on that conversation.

- Q Whom did you say this to?

 THE COURT: The same ruling.
- Q Whom did you say this to?
- A Warren Kimbro.
- Q What, if anything, did he do as a result of that?
- A At that point he put -- when I turn around and walk back, and turn back around -- he put the gun up to Mr. Rackley's head, and the flashlight.

MR. GARRY: He says he turned around, and came back. He can hardly know what Mr. Kimbro did, if that's the fact.

MR. MARKLE: He also said he turned around.

THE COURT: He said he turned around again.

MR. GARRY: May I hear what he did say?

(The answer of the witness was read by the court reporter.)

BY MR. MARKLE:

Q Yes?

A Lonnie had gave him the flashlight, you know. He took the flashlight and put it up against -- about Rackley's head, and pulled the trigger.

- Q What, if anything, did you then observe?
- A Daylight came through the fog, and Alex turned around and fell on the ground. So Kimbro was coming back.

 So I told Lonnie to see for sure if he was dead, and Lonnie

took the gun out of Kimbro's hand and walked back and stood over him, and "hit" him again.

- Q He fired the .45, Mr. McLucas fired the .45?
- A Yes.
- Q And then what, if anything, happened?

MISS RORABACK: If your Honor please, I'm going to object to any further testimony as to any events occurring after this point. It seems to me if there was a conspiracy, I submit certainly my client never joined such a conspiracy either to murder or kidnap, that there's nothing to be added by any testimony of any events subsequent to the actual shooting of the gun, and, secondly, it certainly ends any other testimony or evidence of any probative value as to what occurred, probative as to the other charges. Therefore, I object to any evidence after this point.

THE COURT: What do you claim?

MR. GARRY: I join in that.

MR. MARKLE: I claim that I'm entitled to show what they did after this, your Honor.

THE COURT: How far, and what?

MR. MARKLE: Just to the return to the Kimbro apartment.





THE COURT: Are you talking about evidence now?

MR. MARKLE: Well, there would be conversations,

yes, sir.

THE COURT: I will limit you to disposition of whatever evidence was present at that scene in the swamp.

MR. MARKLE: May I take an exception?

THE COURT: And I will overrule the objections with that limitation.

MR. GARRY: I take exception.

THE COURT: Both parties, exceptions may be noted.

BY MR. MARKLE:

- Q Mr. Sams, what did you then do?
- A I took the gun from Mr. Kimbro, and I took some shells out and I distributed them.
 - Q Where did you distribute them?
 - A As we drove along, I distributed some.
- Q And then whether or not you returned to the Kimbro apartment?

THE COURT: When you say "distribute," what do you mean?

THE WITNESS: Throw them away.

BY MR. MARKLE:

Q Why did you do that?

A Because Landon Williams wanted the man really done up.

MR. GARRY: Just a minute.

MISS RORABACK: I object.

MR. GARRY: Just a minute.

MISS RORABACK: I ask it be stricken.

THE COURT: What is your claim, Mr. Markle?

MR. MARKLE: I claim it shows on the conspiracy, your Ronor, in furtherance of it, instructions given --

THE COURT: Sustain the objection.

MR. MARKLE: May I have an exception?

MISS RORABACK: Hay the answer be stricken,

your Honor?

May the answer be stricken?

THE COURT: The answer may be stricken.

BY MR. MARKLE:

- Q And then did you return to the apartment?
- A Yes.
- Q Now, was there a time when you saw, while in New Haven, June Hilliard?
 - A Yes.
 - Q Where was that, and when?
- A That was -- that was about -- right after Chairman Bobby came. He came in later on again to hear the tapes



themselves.

- Q Who did?
- A June Hilliard.
- Q And where was that?
- A Downstairs in the basement.
- O At what location?
- A Warren Kimbro's house.
- Ω And that is on the day that Mr. Seale gave the speech?

MR. GARRY: No, just a minute, if your Honor please.

That's leading and suggestive, and if you see the answer, you will see why it is leading and suggestive.

May I have the answer read back?

THE COURT: I will let it go out. It may be stricken.

I think he already indicated the time, but it is leading.

It may be stricken.

BY MR. MARKLE:

- Q Canyou tell me when that was?
- A That was later on, about the time -- right after Chairman Bobby left, he came back again.
 - Q When did he first hear the tape?



- M65-1
- A When he heard it?
- Q Yes.
- A Oh, that was --

MR. GARRY: That's been asked and answered, if your Honor please, twice now.

THE COURT: Well, if it has, I don't know.

MR. GARRY: Well, --

THE COURT: Overrule the objection.

It may be answered.

BY MR. MARKLES

- Q When did Mr. Hilliard first hear those tapes?
- A He heard those tapes the same morning that Chairman Bobby came in, about a couple hours after.
 - Q And do you know what date that is, can you tell me?
- A Oh, that would be around about Chairman Bobby spoke on the 19th; that would be around about 2:00 o'clock.
 - Q On the 19th?
 - A Yes.

MISS RORABACK: I'm sorry, -

MR. GARRY: It can't be at 2:00 o'clock on the 19th, if your Honor please.

THE WITHESS: That would be the 20th, Mr. Garry.

BY HR. MARKLE:

- Q And where did he hear those tapes?
- A In Warren Kimbro's basement.

- And who was present at that time?
- A I, June and Landon.

MISS RORABACK: June?

THE WITNESS: And Kimbro.

MISS ROPABACK: Could that be reread?

THE COURT: It may be read.

(The last two answers of the witness were read by the court reporter.)

MR. MARKLE: I have no further questions.

THE COURT: All right, Mr. Markle?

MR. MARKLE: I have no further questions, your Honor.

THE COURT: All right.

MR. GARRY: If your Monor please, we just got this transcript, some 61 pages, and I would like an opportunity to read this between now and 2:00 o'clock so that I can prepare my cross examination. (Indicating)

THE COURT: Well, the jury is excused for the moment.

We will take our morning recess anyway and see where we are going from there.

(The jury was excused, at 11:30 A. M.)

THE COURT: This is the tape you heard the other day?

MR. GARRY: Yes.

Now, it's been transcribed, and there are some areas in here I want to cross-examine this witness on.

MISS RORABACK: If your Honor please, I might also say that I would like at this time to ask Mr. Markle to produce copies of all the statements and recordings --

THE COURT: You are entitled to them,

MISS RORABACK: I know, but I thought we could get into this before the recess, I would like to have it on the record.

THE COURT: Do you have them there now, Mr. Markle?

MR. MARKLE: I do your Honor.

THE COURT: All right, pass them out.

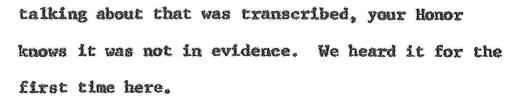
(Documents were handed to counsel by Mr. Markle.)

MR. MARKLE: The tapes are in evidence, that she is talking about, in the last case, whatever there is.

THE COURT: The tape that was transcribed?

MR. MARKIE: I believe it's all in evidence.

MR. GARRY: Just a minute, this one that we are



MR. MARKLE: I am not talking about that.

THE COURT: He is not talking about this case, he is talking about the McLucas case.

MR. GARRY: The tape is in evidence in that case?

MR. MARKIE: I am responding to Miss Roraback's question.

THE COURT: No, he is not talking about this case.

All right, do you have all the statements and transcripts?

MR. MARKLE: Might the witness step down?

MISS RORABACK: As I understand it, your Honor, I remember Mr. Rosen indicated the other day there was one statement that had been transcribed that was from a tape, I believe it's the one that Mr. Markle just furnished me under date of August 21, 1969, and that, according to Mr. Rosen, there were inaccuracies in the transcription, and it's that one that we want to have an opportunity to hear and compare to the statement, so that there is, in addition to the one of August 21, 1969, which has now been transcribed,



in addition, there are two others that have been furnished me.

THE COURT: All right, you may step down, Mr. Sams.

(The witness was excused.)

THE COURT: Now, the transcript that was given to you this morning, that's the tape that was played for you when, Monday or Tuesday?

MR. MARKLE: Tuesday.

THE COURT: Tuesday.

What is the date of that one?

MISS RORABACK: August 27, 1969.

MR. GARRY: It should be August 17th.

MR. ROSEN: There is a typographical error.

THE COURT: That's the tape of August 17th, all right.

Now, what else do you have there?

MISS RORABACK: I have, your Honor, statements dated August 15, 1969, August --

THE COURT: August 15th?

MISS RORABACK: Yes.

THE COURT: That's a statement?

MISS RORABACK: Yes, your Honor.

August 16th --

THE COURT: The 16th.



A statement?

MISS RORABACK: Well, it's questions and answers. Whether this is a transcription, again, I don't know, your Honor, but the one of August 17th -- I'm sorry, August 21st, is apparently a transcription of a tape, and it's that one that I believe Mr. Rosen has heard.

MR. ROSEN: I haven t heard it.

MISS RORABACK: We have been advised --

THE COURT: You have not heard it, but you want to hear it, is that right?

MISS RORABACK: That's right, your Honor.

THE COURT: All right, where is that tape?

Do you have that one there, Mr. Clerk?

THE CLERK: No. I don't, your Honor.

THE COURT: Where would it be?

THE CLERK: Probably upstairs.

THE COURT: That is the one of August 21st.

You have the machine here, the recorder?

THE CLERK: The State's Attorney's office has it.

THE COURT: They do.

All right. So, you want from now until 2:00 o'clock to review the August 17th transcript, to hear the August 21st tape, and to look --

MR. GARRY: I won't be able to do both, Judge.

THE COURT: What do you mean, you won't?

MR. GARRY: The tape we are talking about is some 47 pages, it's quite a long tape, and it takes at least an hour.

THE COURT: It's only 11:30 now.

You have the transcript. You have had that all along, and all you want to do is listen to it.

MR. GARRY: That's right.

THE COURT: All right. So, you've got until 2:00 o'clock.

All right.

MR. GARRY: Very well.

THE COURT: Now, what do I do with my jury?

All right, why don't you bring them back in, and I will talk to them.

(The jury entered the courtroom at 11:30 A.M.)

THE COURT: Ladies and gentlemen, we are going to have a recess until 2:00 o'clock, so that counsel can review various statements and transcriptions.

Your coffee is ready. It will be in in a moment.

I suggest that you amuse yourselves, to the best of your ability, for a little while, and then, you know, I will tell the Sheriff to have an early lunch and a casual lunch, and I will see you at

2:00 o'clock.

All right.

(The jury was excused at 11:30 A.M.)

THE COURT: All right, that machine will have to be used across the hall. You can't use it here, because they will be coming in and out.

So, we will prepare to recess.

MR. GARRY: I am going to work here, Judge.

THE COURT: I can't have counsel working here.

I'd rather have you -- isn't there a room across
the hall that you can use?

MISS RORABACK: This is just for reading.

MR. GARRY: I am just going to work.

THE COURT: Just sit at the table, that's all?

MR. GARRY: Yes.

THE COURT: All right, that's all right, but that machine, you play that across the hall somewhere.

All right, recess until 2:00 o'clock.

I will be available, if counsel has any problems. (The court recessed at 11:35 A.M.)

end tk.

AFTERNOON SESSION

(The court reconvened at 2:00 P. M.)

THE COURT: Bring in the witness.

(The witness resumed the stand.)

THE COURT: All set, counsel?

MR. MARKLE: Yes, your Honor.

THE COURT: Call the jury.

(The jury entered the courtroom at 2:01 P. M.)

THE COURT: All right, Miss Roraback.

MISS RORABACK: Mr. Garry will proceed first.

THE COURT: All right.

CROSS EXAMINATION BY MR. GARRY:

- Q How old are you, sir?
- A What did you say, Mr. Garry? What did you say?

MR. GARRY: May the question be read back.

THE COURT: Read it back.

(The last question by Mr. Garry was read by the court reporter.)

THE WITNESS: Today I become 25 years old.

- Q Where were you born?
- A Mobile, Alabama, sir.

Q What day and what year?

MR. MARKLE: If your Honor please, I see no relevance in this.

THE COURT: He just said today he was 25 years of age. That was his answer to your first question.

MR. GARRY: I heard him.

THE COURT: I will sustain the objection to the question.

BY MR. GARRY:

- Ω De you know how old Mr. Landon is?
- A No. He is somewhere around, maybe, 25, 26. I don't know for sure.
 - Q Do you know how old Mr. Rory is?
 - A Rory, maybe, 20 years old. I'm not sure.
 - 0 207
 - A Yes.
 - Q Do you know how old Mrs. Huggins is?
 - A No.
 - Q At any rate, I believe she's younger than you are?
 - A I don't know, Mr. Garry.
- Q Sir, how many statements have you made to law enforcement agencies since you were arrested on August 7, 1969?

MR. MARKLE: I am going to object, if the Court please, unless those statements are admitted.

THE COURT: Overruled.

MR. MARKLE: May I have an exception.

THE COURT: Exception may be noted.

THE WITNESS: Could you repeat that, please?

THE COURT: It may be read.

(The last question by Mr. Garry was read by the court reporter.)

THE WITNESS: Oh, I made approximately about three statements, I believe, Mr. Garry -- I'm not sure, three or four.

MISS RORABACK: I'm sorry. Could that be read back.

THE COURT: It may be read.

Try to keep your voice up, Mr. Sams.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

- Q When is the last time that you made a statement to any law enforcement agency?
- A The last time was around in August, sometime, August.
 - Q August of what year?
 - A 1969.
- Q And you haven't made a statement since then to any law enforcement agency?

MR. MARKLE: I will object, unless we can clear

up what he means by, "statement." Does he mean a written statement or talking to someone?

THE COURT: What do you mean?

MR. GARRY: I mean any kind of a statement he has made to a law enforcement agency.

THE COURT: Do you mean written or oral or both?

MR. GARRY: Both.

THE WITNESS: My last written statement was in August, when I got arrested.

BY MR. GARRY:

Ω Have you made any statements orally to anybody since then?

A I don't understand what you mean by, "statements."

I talked to a lot of peoples, Mr. Garry, you know, I talked
to a lot of people.

- Q Who have you talked to in the law enforcement field since youwere arrested?
- A Officer Vinnie DeRosa, Nicky Pastore, Mr. Arnold Markle.
 - Q And who?
 - A Arnold Markle.
 - Q Anyone else?
 - A Ray Morse.
 - Q Who?

- A Mr. Ray Morse.
- Q Who is he?
- A He's an officer, law officer.
- Q When did you talk to him?
- A Sometime around last year.
- Q And does that end your own recall as to the number of persons that you have talked to?
 - A Besides Mr. Jack Donahue, that's all.
 - Q Besides who?
 - A Jack Donahue.
 - Q Mr. Donahue?
 - A Jack Donahue.
 - Q Who is he?
 - A He is public defender detective, I believe.
 - Q Anyone else?
 - A No, sir.
- Q Did you talk to members of the Federal Bureau of Investigation?
 - A Oh, yes, sir.
- Q And how many times have you talked to a member of the Federal Bureau of Investigation?
 - A Only twice.

- Q And what times were that?
- A That was around August, the time that they came to see Lonnie McLucas and I.
 - Q When was that?
- A When I got arrested in August and when I came to New Haven in August.
 - Q And when was the first time that they talked to you?
 - A When I first got busted.
 - Q That was in Toronto, isn't that right?
 - A Yes, sir.
 - Q Have you talked to any other law enforcement agency?
- A You mean pertaining to the case or what? A statement? I don't understand.
 - Q Yes, pertaining to the case.
 - A Riding down, back and forth, I talk.
 - Q Have you talked to anybody on the McClellan Committee?
 - A Sir?
- Q Have you talked to anybody on the McClellan Committee of the United States Senate?
 - A McClellan's Committee? Who is that?
 - Q You are not familiar with the McClellan Committee?
 - A No.
- Q Have you ever heard the name "McClellan" before today?

MR. MARKLE: I am going to object.

THE COURT: You are going pretty far afield, Mr. Garry.

MR. GARRY: I claim it.

THE COURT: On what basis?

MR. GARRY: On the basis that if he has made statements to them, I am entitled to see those statements. If he has made statements pertaining to this case, I am entitled to know what they are.

THE COURT: Put that question to him.

MR. GARRY: Well, first of all, we have to clarify the fact of whether he knows what the McClellan Committee is.

THE COURT: Well, he indicated that he doesn't.
What's your next question?

BY MR. GARRY:

Q Is it your statement, sir, that you don't know what the McClellan Committee is?

MR. MARKLE: I am going to object, if the Court please.

First of all, the claim is wrong. Even if he had talked to them, it is not a produceable statement, that I know of, under the context of law, and I would like some authority cited to your Honor.

Secondly, it's got no relevance here, your

Honor, and he already stated he doesn't know -even know what the statement is -- the committee is.

It is just going to cloud an issue and get into collaterals.

THE COURT: Sustained.

Take an exception.

MR. GARRY: I want to be heard on this.

THE COURT: The jury is excused.

(The jury was excused at 2:08 P.M.)

MR. GARRY: If the Court please, it's important that I know whether he has made a statement to the McClellan Committee, and when the witness says he doesn't know what that is, that is not true either, because I have his written statement -- I mean the statement that he made by tape, the same matter was gone into, and the statement was made on the 17th day of August. (Sie)

THE COURT: I will let you ask this question

Mr. Garry: Have you ever made any statement to any

United States Senate Committee. That's what you

want to know?

MR. GARRY: Yes, that's what I want to know.

THE COURT: I will allow that.

MR. GARRY: Or a House Committee.

THE COURT: Or a House Committee.



All right, call the jury.

MR. GARRY: And whether he has testified.

Those are the lines that I want to go into.

THE COURT: Those two words you may use.

Call the jury.

Sheriff, one of the jurors is busy. Close the door.

All right.

(The jury entered the courtroom at 2:10 P.M.)

Q Sir, have you ever made a statement or testified to any committee or body of the United States Senate or the Congress of the United States --

A No. sir.

BY MR. GARRY:

Q -- at any time since your arrest?

A No, sir.

Q Have you talked to any member of their committee, any investigator in their committee?

MR. MARKLE: I am going to object, if the Court please.

THE COURT: I will let it be answered. I think that's the shortest way.

Go ahead.

MR. MARKLE: All right.

A No. sir.

- Q Now, when is the first time, sir, that you met Mr. Alex Rackley?
 - A Oh, that was in New York City.
 - Q I know. When was that?
 - A That was about the first day we arrived in New York.
 - Q Could you tell us when you first arrived in New York?
- A I arrived in New York about around on a Monday, I believe.
- Q I wonder if you would take your hand away from your mouth so we could hear you.
 - A I think I arrived on New York on a Monday.
 - Q What date would that be?
 - A I don't know, Mr. Garry.
 - Q You have no idea?
- A It was around the 12th, the 13th, somewhere around there.
 - Q Of May?
 - A Yes, sir.
 - Q 1969?
 - A Yes, sir.
 - Q And you met Alex Rackley on the day that you arrived?
 - A Yes, later on that evening.
- Q And you beat him and struck him on the first time that you met him, is that correct?
 - A I didn't understand you. What did you say?

THE COURT: It may be read.

(The last question by Mr. Garry was read by the court reporter.)



A Yes, sir.

MR. GARRY: I didn't get the answer.

THE COURT: The answer may be read.

(The court reporter complied.)

- Q Why did you beat him the first time that you met him?
 - A I was ordered to.
 - Q By whom?
 - A Mr. Landon Williams.
- Q Why did he order you to, did he say why he ordered you to?
 - A Yes, sir.
 - Q What did he say?
- A Alex Rackley and the rest of the members of the New York Chapter was told to go home and to begin to dress like people and not like clowns, and come back to the Party office looking like people. And Alex came back with his hair braided, and I had orders from Landon to beat him. And the rest of the members there beat him.
 - Q Mr. Landon wasn't even present at that time, was he?
 - A Yes, sir. He was present.
 - Q Where was he?
 - A In the New Brk Chapter Office, sir.
 - Ω What time was it when you beat Alex Rackley?



- A Oh, around about 6:00, 6:00 o'clock.
- Q In the morning?
- A No, in the afternoon.
- Q Isn't it a fact that you beat Alex Rackley because he came into the place where you were at with his hair braided?

MR. MARKLE: Object, if the Court please. He just said that.

THE COURT: That's what he said, I thought.
BY MR. GARRY:

- Q And not because Mr. Landon Williams told you to beat him?
 - A No, sir, that's not true.
- Q Who was present when Mr. Landon Williams told you to beat Alex Rackley?
 - A All the members there was present at that time.
 - Ω Who? My question was, who was present?
- A Mr. Garry, I don't know all the members' name there. You know, they went by African names, and I don't recall all their names.
 - Q Well, give us the African names.
- A Akbar, Zayd, Uvetta -- I don't know the rest of them names.
- Q Is your testimony that Mr. Zayd Shakur was present at the time that Mr. Landon told you to beat Alex Rackley?

- A Yes, I think he was.
- Q You "think"?
- A Yes, sir.
- Q Any doubt about it?
- A No, sir.
- Q You're sure about that?
- A Yes, sir.
- Q Now, sir, that isn't the first time that you had ever beaten up any Black Panther Party members, was it?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Your claim, Mr. Garry?

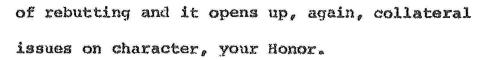
MR. GARRY: My claim is that this man's propensity and entire conduct during the entire time that he was anywhere near the Black Panther Party, was an act of violence. And it is in the same manner that he conducted himself towards Mr. Alex Rackley. That's my claim.

THE COURT: I'll let the question be answered.

MR. MARKLE: May I be heard?

THE COURT: Yes.

MR. MARKLE: Well, that has nothing, no relevance to anything that was touched on cross examination — on direct examination. It's strictly an effort to show something that we have no chance



THE COURT: I'll let it be answered.

MR. MARKLE: May I have an exception?

THE WITNESS: Would you restate that?

THE COURT: Did you understand the question?

You may answer it "Yes" or "No."

THE WITNESS: Repeat?

(The court reporter complied.)

THE WITNESS: No, sir.

BY MR. GARRY:

Q As a matter of fact, lecause of your own brutality, and your conduct of brutality towards members of the Black Panther Party, you were expelled on two different occasions from the Black Panther Party?

MR. MARKLE: I'm going to object, and continue this objection, your Honor. I'm sorry.

THE COURT: Overrule the objection.

MR. MARKLE: May I have an exception?

THE COURT: Exception noted.

THE WITNESS: Could you be a little more specific with that, Mr. Garry? Because I don't understand what you are saying right now.

MR. GARRY: Would you read the question?



(The court reporter complied.)

THE WITNESS: You say "two different occasions"?

BY MR. GARRY:

- Q Weren't you expelled twice?
- A No, sir.
- Q Now many times were you expelled?
- A I was only expelled once from the Party.
- Q And the purpose of your being expelled from the Party at that time was because of your act of violence, was it not?

MR. MARKLE: Now, I'm going to object, if the Court please. Now, he's answered it once. Where --

MR. MARKLE: May I have an exception?

THE COURT: Exception may be noted.

Do you understand the question, Mr. Sams?

THE WITNESS: No, would you reread it, please?

THE COURT: Read the question.

(The court reporter complied.)

THE WITNESS: Yes, sir.

BY MR. GARRY:

Q May I approach the witness, your Honor?

THE COURT: Surely.

BY MR. GARRY:

Q I asked you the question, if you had been kicked out

of the Party twice and you said "No," is that correct?

- A Um-um.
- Q I want you to look at your, the tape which you had made which has been transcribed, which was done by Sergeant Vincent DeRosa and Edmund Flanagan, which was recorded in Canada, Toronto, Canada, on August the 17th, 1969, and ask you to read that portion of it to yourself (handing to the witness.)

MR. GARRY: For the record, that's Page 8.
BY MR. GARRY:

- Q You did state at that time, did you not --
- A No, not that I recall.
- Q -- "See, I was never really throwed -- truly trusted. See, I was kicked out of the Party about twice. See, the Party was going to off me two or three times, because Landon told me" --

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Sustained. You're reading from a document that's not in evidence, Mr.Garry.

- Q You say that this was not said by you?
- A Oh, I say this, Mr. Garry, you know, this is something that Landon Williams had informed me of, and I only been expelled out of the Party once and placed on Party



suspension once, Mr. Garry.

O Sir, did you tell Sergeant DeRosa and Mr. Flanagan that you had been, that you were kicked out of the Party "about twice"; did you tell them that?

A No, sir.

MR. GARRY: I'm not familiar with the rules of this portion of the evidence as to what to do at this point. I am familiar with it in my own State, and perhaps I should be guided by whatever the Court suggests I should do.

Normally, I would put this, read this and ask for a stipulation that this question was asked and that answer was given.

THE COURT: If you claim a discrepancy, and you careto offer that statement or transcript of the statement, or whatever it is, go ahead.

MR. GARRY: Well, that whole statement is some, many, many pages. I wouldn't want to put in the whole document, which is highly irrelevant.

THE COURT: That's the way it goes.

MR. GARRY: You mean, I have to put in the whole document?

THE COURT: That's right.

MR. GARRY: I'm going to have to take an exception to that, your Honor.

THE COURT: Take an exception, Mr. Garry.

BY MR. GARRY:

Q Do you draw a line of demarcation, do you draw a line between a "compulsion" and a suspension?

MR. MARKLE: I'm going to object, if the Court please. I feel this is irrelevant.

"expulsion" and suspension, is that what you mean?

THE WITNESS: What did he say, your Honor?

THE COURT: Read the question.

(The court reporter complied.)

THE WITHESS: No, I don't draw the line.

The Party draws thattype of line, I guess.

BY MR. GARRY:

Q Well, the document that I showed you said that you, yourself, had said --

A Mr. Garry --

MR. MARKLE: Now, just a minute. Your Honor has ruled on that. It doesn't say that and I don't think it's fair to the witness.

THE COURT: I'll sustain the objection.

You're arguing with the witness now, Mr. Garry.

BY MR. GARRY:

Q Were you expelled one time, and suspended another time?

- A Oh, I was put on Party working suspension at one times, yes.
 - Q And expelled at one time?
 - A Yes.

MR. MARKLE: May we have when, your Honor?

THE COURT: If you care to ask on redirect,

ask. If Mr. Garry wants to ask now, he can ask now.

BY MR. GARRY:

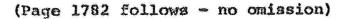
- Q Now, you were kicked out of the Party by Bobby G. Seale, Chairman of the Party, were you not?
 - A Yes, sir.
 - Q And why did he kick you out?
 - A Oh, I had a fight with some Panthers in the Party.
 - Q Who did you have a fight with?
- A Oh, I don't remember, I don't recall the member's name, but he's at the Party.
- Q And you accused the person that you had a fight with of being an informer, did you not?
 - A No, sir.
 - Q And you stabbed the person in the leg, did you not?
 - A Yes, sir.
 - Q With a knife?
 - A Yes, sir.
- Q And there was another time that you also attacked a member of the Party, and you grabbed him in the presence of

others and accused that person of being an informer, did you not?

A No, sir.

MR.MARKLE: I'm going to - all right.

- Q Do you know of a person by the name of Tanaka?
- A Yes, sir.



- Q Didn't you accuse him of being an informer, and attack him and threaten to kill him?
 - A No, sir.
 - Q That never happened?
 - A No, I didn't accuse him of being an informer.
 - Q I beg your pardon?
 - A I didn't accuse him of being no informer.
 - Q What did you accuse him of?
 - A I didn't accuse him of anything.
 - Q Did you attack him?
 - A He had "disiplint, yes.
 - Q You disciplined him?
 - A Yes.
- Q What authority did you have to discipline him, you were not even a member of the Black Panther Party at that time?
- A Mr. Garry, at that time, the D.C. Field Marshal,
 Mr. Donald Cox, the Party had a "vamp" on the office, and
 an attack on the office and everybody was put on Party alert.
 And I was in charge of a house. Chief Brooks and Robert Ware
 was placed, was one of my superior officers at that time and
 I was, I was placed under his orders, and at that time Tanaka
 was not at the Black Panther Party and Tanaka was a young man,
 he was a member of the Chinese --
- Q Sir, isn't it a fact that you told the persons that were there, when they asked, when you accused him of being an

informer they asked you the question: "What makes you think Brother Tanaka is an informer?" And you told them that you caught him flushing certain papers down the toilet, and that was the reason that you came to the conclusion that he was an informer, isn't that correct?

A No, sir.

MR. MARKLE: I object --

THE COURT: Sustained. He's answered, I'll let the answer stand.

BY MR. GARRY:

Q And isn't it also a fact that if it wasn't for Mr.

Donald Cox that you were going to kill him?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Sustained.

A No. sir.

THE COURT: No, no. I'll let the answer stand.

BY MR. GARRY:

Q Getting back to -- why were you suspended?

MR. MARKLE: Now, if the Court please, I am going to object at this point. It's obvious that this is before any of the relevant time, and it's not relevant to this, that he was suspended, and he obviously was in the Party at the time of the action, and it's just completely irrelevant.

This is going to take us into collateral issues,
THE COURT: What is your claim, Mr. Garry?

MR. GARRY: My claim is that he has a tremendous dislike and hatred for Bobby Seale. Bobby Seale expelled him and threw him clear out of the Party and told him not to be around Party head-quarters under any circumstances, and this is a scheme or device on his part to use the same type of violence he used heretofore by his own pattern of conduct. That's my claim.

MR. MARKLE: If your Honor please, there is no testimony about what Bobby Seale did. He said he was expelled, period. There is nothing about telling him to stay away, and it's completely irrelevant, and it's a speech, and it's irrelevant and immaterial for this particular issue that we put on, your Honor.

He said that he was expelled by Seale, and that's all.

MR. GARRY: It's the propensity and character of this man that is very much in issue.

MR. MARKLE: And I object to that, if the Court please, because under the rules of this State, they are not in issue, and I would respectfully except that, if that's his claim.

THE COURT: I will let this specific question be answered, and then we will see where we go.

MR. MARKLE: Might I have an exception?
THE COURT: Exception noted.

Have you got the question there, Mr. Reporter?
Read it.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: I was suspended at that time -I was put on working suspension at that time, Mr.
Garry, for being late for the Black Panthers for
Breakfast for Children.

- Q Who suspended you?
- A The Officer of the Day put me on working suspension, Mr. Clebe Brooks.
 - Q How were you able to get back into the Party after

you were expelled by Chairman Bobby Seale?

MR. MARKIE: I'm going to object, if the Court please.

THE COURT: I am going to sustain the objection. We are going way off.

BY MR. GARRY:

Q Weren't you told by Bobby Seale that you are not to come anywhere near and around the Black Panther headquarters under any circumstances?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: I'll let it be answered.

Overruled.

MR. MARKLE: When?

Might we have a time, your Monor?

It isn't even relevant at this stage. We are in April of 1969.

THE COURT: I understand.

Put a date on it, Mr. Garry.

MR. GARRY: Beg your pardon?

THE COURT: Put a date on it.

BY MR. GARRY:

Q Prior --

THE COURT: You mean when he was expelled?



Q Before May 19, 1969, weren't you told by Mr. Seale that you are not to be around any of the Party headquarters?

MR. MARKLE: I'm going to object.

THE WITNESS: No, sir.

BY MR. GARRY:

- Q That's not true?
- A No, that's not true.
- Q And, as a matter of fact, isn't it a fact, sir, that you always made sure that you were never around when Mr. Seale was around any part of the Party functions?

MR. MARKLE: I'm going to object to this.

THE COURT: Sustained.



- Q And isn't it also true that on the 19th of May, 1969, you didn't go to hear Mr. Seale because you were afraid that Mr. Seale would know you were there?
 - A No, sir, that's not true.
 - Q That's not true?
 - A No, sir.
- Q Well, you were under Party discipline at the time, were you not?
 - A No. sir.
 - Q You were not under discipline on May 19, 1969?
 - A No. sir.
- Q You weren't charged with the fact that your ideology had been slipping?
 - A Yes, sir, that's my discipline, Mr. Garry.
 - Q What is that, a boquet?
- A No, that's what the Party calls more or less you're not on your job. That's not a -- not what you call it. I don't know what you are talking about.
 - Q What do you consider discipline?

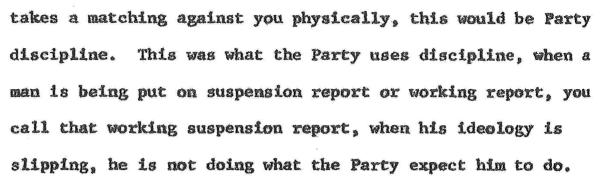
MR. MARKIE: Argumentative, your Honor.

THE COURT: Sustained.

- Q Would you give us your definition of discipline, sir?
- A Discipline, Mr. Garry, is when someone bothers --







MISS RORABACK: Might that be re-read, your

THE COURT: It may be read.

(The last answer of the witness was read by the court reporter.)

BY MR. GARRY:

Q Sir, it's a fact, is it not, that you not only beat Rackley up several times when you first saw him, but you also had him -- ordered him to run around the block three times in New York?

- A Yes, sir.
- Q And you also accused him of being disrespectful to the people?
 - A Yes, sir.
- Q In what way was Mr. Rackley disrespectful to the people?
- A The Party has rules and regulations, when orders gaven (sic) to members in the Party, they supposed to follow the Party policy and orders, and Alex Rackley disobey that order when he came back with his hair braided, and that was

being disrespectful to the people, because the Party doesn't believe in Cultural Nationalist statuses, and when you plight (sic) your hair, in the Black Panther Party, they call that the Cultural Nationalist Statuses, so as far as the Party is concerned, the man is disrespectful to the people, and he disobeyed Party policy orders, so that's what Rackley was charged with, and in that he was told, at times, to carry out some kind of tactics, so he would be able to not to commit that crime again against the people, that's Party policies and Party philosophy and ideology when a man messes up, Mr. Garry, and I was under those orders by Mr. Landon Williams.

Q And when did he tell you that?

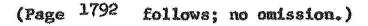
A Mr. Landon Williams told me that on the way from the plane, all the way, that any means necessary, we was to straighten out the Chapter, in any means necessary, and when the Party says "any means necessary," Mr. Garry, you carry out those orders, or you serve the Party's discipline, and I am not going to serve it.

Q When is the first time you ever said that Mr. Landon Williams told you to do anything, or "any means necessary"; when is the first time that terminology was ever used by you in reference to Mr. Landon Williams?

A That terminology was used, I think, in the testimony with Mr. McLucas, and I think it was made in the statement, my first statement, that "any means necessary" we was to straighten



out the New York Chapter of the Party and the so-called members there. That was my whole orders, going with Brother Landon, and I was in his custody, and I was to obey his orders, and that's just what I did, Mr. Garry.





Q What is it that you were to straighten out in the New York Chapter?

A Number one, we were to straighten out the members there who had Culturalist Nationalist Statuses, which was against the Party policies, against Party rules and regulations; number two, they wasn't practicing Party policies up to date, as far as getting the Breakfast for Children program out, Mr. Garry.

Q And in what way were they not following the Party policies, other than the Breakfast for Children?

A The Party requires members to work twenty-four hours a day and be alert at all times, and they weren't functioning in that manner, Mr. Garry.

- Q Who said they weren't?
- A Mr. Landon Williams.
- Q Mr. Williams had never been there before, any more than you had, isn't that right?
 - A I don't know, Mr. Garry.
 - Q You had never been there before --
 - A No, sir.
 - Q -- as a Panther?
 - A No, sir.
- Q And Mr. Williams had not, you determined that, did you not?

MR. MARKLE: He answered that, if the Court



please.

He said he didn't --

THE WITNESS: I don't know, Mr. Garry.

THE COURT: He said he didn't know.

I will let it stand.

BY MR, GARRY:

Q And there were Party members there who, were there not, who were functioning?

A Sir?

- Q There were Party members there that were functioning, isn't that right?
 - A To some degree, yes, sir.
- Q Well, there was a Chairman by the name of -- or Deputy Chairman, by the name of David Brothers, was there not?
 - A Yes, sir.
- Q And you worked over him a little bit, too, didn't you?
 - A I don't understand what you mean, Mr. Garry.
 - Q Well, you gave him some lip?
 - A Yes, sir.
 - Q And you had to be reprimanded for that, were you not?
 - A Yes, sir.
 - Q And who reprimended you for that?
 - A Mr. Landon Williams, because he was my superior.
 - Q So because of your disrespect to the Deputy Chairman



of the Party, isn't that right?

A Yes, sir.

Q So that Mr. Williams did not give you carte blanche to use any means necessary, did he, sir?

A Sir?

MR. GARRY: I would like to have my question read.

THE COURT: It may be read.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: Yes, sir, he did.

BY MR. GARRY:

Q And why did he discipline you for being disrespectful to the Deputy Chairman?

A The Deputy Chairman at that time was my superior officer, and if you say something that was disrespectful towards him, spoke to him in a manner that wasn't in a superior manner, as far as respect to him, such as "sir" to Chairman Bobby, so you be disciplined or you be reprimanded for it, and that's what happened to me. I did not respect Mr. Brothers, and Brother Landon felt I should, as a superior. That's all.

Q You were reprimanded, were you not, and disciplined because you were belittling Chairman Brothers and you were using strong-arm methods against brothers and sisters that were in the Party at the time in New York?



- A No. sir.
- Q Now, you said you first went to New York about the 12th of May?

A Somewhere around the last of April; around about the 12th of May, first -- around -- I don't recall actually what day it was.

- Q Well, as a matter of fact, you and Landon first came to New Haven in April, did you not?
 - A New Haven?
 - Q Yes.
 - A In April?
 - Q Yes, April.
- A It could have been around the last of April; between May and April.
- Q Calling your attention to Page 1177 of your testimony in the McLucas trial, I would like to have you read Page 7, while the Prosecutor was asking you questions in the direct testimony at that time. (Indicating)

MR. MARKLE: If the Court please, this is outside the scope of my examination.

Your Honor so ruled, that I wasn't able to go into it, and now we are going beyond the scope.

THE COURT: Cross-examination.

I will allow it.

MR. MARKLE: But your Honor wouldn't allow me





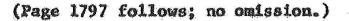
to go into it at all.

THE COURT: Overrule the objection.

MR. MARKLE: Might I have an exception, your

Monor?

THE COURT: Exception may be noted.





THE WITNESS: Well, I'm sorry, Mr. Garry, but he didn't say actually what day it is here. I don't see it. (Indicating)

- Q So we are not quibbling over it, it does say around sometime --
 - A Sometime in --
 - Q -- April?
 - A Late April or May, I'm not for sure.
- Q There is not a word in there about "late April," is there?
 - A No, sir.
 - Q Why --
 - A It could have been.
- Q Why do you say "late April" when there is nothing in there?
- A Because it could have been took place around late April or May.
- Q I am going by what you have heretofore testified under oath.
- A I'm saying, Mr. Garry, it could have been around late April or May.
- Q But that isn't what you testified to when the Prosecutor was asking you these questions in the trial of Lonnie McLucas; did you, sir?



- A Yes, sir, I think I intimated late April. Yes, sir.
- Q Well, would you show me where it says "late April" here, sir? (Indicating)
 - A (No response.)
- Q You show me in there where it says "late April"? (Indicating)
 - A You mean just specifically here? (Indicating)
 - Q Yes, in that page.

A I'll tell you what, you look around somewhere else there, Mr. Garry, and you might find it, but it's not there, not right there.

I mean, you don't specify what you are specifically -- you are talking about this statement here. You don't -- I mean, you don't -- I don't understand you there, Mr. Garry.

- Q You understand that you were under oath when you testified in the Lonnie McLucas case, were you not?
 - A Yes, sir.
 - Q And this question was asked of you, --
 - A Yes, sir.
 - Q -- "Do you remember when that was, approximately?"
 - A Around late April or maybe May; in May.
 - Q That isn't what that answer is. The answer is -MR. MARKLE: I am going to object.

BY MR. GARRY:

Q -- "That was somewhere around in April." (Indicating)

THE COURT: Sustained.

You're reading from something not in evidence.

MR. GARRY: I am reading, if your Honor please, from the previous testimony.

THE COURT: I know you are.

MR. GARRY: There is a little difference.

THE COURT: It's not in evidence.

MR. GARRY: Well, may we put this into evidence?

THE COURT: The whole document?

MR. GARRY: The page.

THE COURT: No.

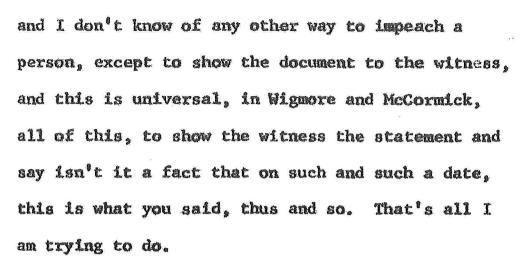
MR. GARRY: I want to be heard on this, if your Honor please. I think this is important enough.

THE COURT: I will excuse the jury.

(The jury was excused at 2:45 P.M.)

MR. GARRY: There may be a line of demarcation between a statement that a particular witness has heretofore given in purposes of cross-examination and the rules may be somewhat different, but I doubt it, but it's entirely different when a person has heretofore previously testified under oath and has been amply cross-examined and represented by the State that when they give a contradictory statement, and the statement is different from what they are testifying to here, they be permitted to be impeached,





THE COURT: That's what you have done so far.

Now, he says "No."

MR. GARRY: He says, "No," but I say, "Didn't you so testify on that date?" . That's what my impeaching question is.

THE COURT: As I understand his enswer, his answer is "No," or words to that effect.

MR. GARRY: No, he doesn't say that, that's what I am trying to get at, your Honor.

THE COURT: Well, I don't know --

MR. GARRY: Assuming he does say "No," your Honor, then I am permitted to read or bring the court reporter in here and have him sworn, unless there is a stipulation that these are official records --

THE COURT: Well, you haven't gotten to that point yet. Apparently, from what you tell me, you think he disagrees with you.

Is that what you are telling me?

MR. GARRY: Yes, I think he disagrees with me.

THE COURT: Well, you asked that a moment ago, and he said, "No," we hadn't gotten to that point.

MR. GARRY: Well, I don't know, your Honor, I'm not following you.

Maybe we are having a lack of communication, Judge.

THE COURT: I don't know whether we are or not, but let's go.

What have you got: What do you want to do?

MR. GARRY: I want to read a portion and say,

"Didn't you, on this particular date, under oath,
say the following."

THE COURT: Why can't you show him that book and ask him if it refreshes his recollection, and then, if he says, "No, sir," it does not refresh his recollection, then you may ask him, "Well, didn't you say this on such and such a day?"

MR. GARRY: Very good.

THE COURT: And if he says, "No, I didn't," then you can put the transcript in, if you care to.

MR. GARRY: The entire transcript?

THE COURT: The transcript.

MR. GARRY: That isn't --

THE COURT: If you don't care to, don't.

MR. GARRY: Well, Judge, that is not the law of any --

THE COURT: That's my ruling.

MR. GARRY: Well, that's what I'm trying to say. I'm trying to see if I can convince your Honor that that is not proper impeachment.

THE COURT: No, that's my ruling.

MR. GARRY: That I have to put in the entire transcript?

THE COURT: That's right, if you want to.

You don't have to, but if you want to, you can.

Call the jury.

MR. GARRY: Can I take an exception?

THE COURT: Surely.

(The jury entered the courtroom at 2:50 P.M.)

C

BY MR. GARRY:

O Does it refresh your memory, Mr. Sams, that the question was asked you, "Who came the first time you came to New Haven"?

MR.MARKLE: I will object to that, if the Court please. That is not the way your Honor ruled.

Might I just note, you said to show him the transcript.

THE COURT: He has seen it.

You have read that, Mr. Sams?

THE WITNESS: Not what Mr. Garry is speaking of.
THE COURT: Show him what you are speaking of.

I assume it's the same thing.

- Q Page 7. The question at the bottom of Page 6.
- A Page what?
- Q "7."
- A Yes. Somewhere around April, yes, sir.
- Q Does that refresh your recollection?
- A Yes, sir.
- Q And when you came here in April, what was the purpose in your coming to New Haven inApril of 1969?
- A The purpose was supposed to be to straighten out the New York Chapter and investigate what happened to New York 21 and I was under Brother Landon's custody.





- Ω And you were going to investigate the New York Chapter of the 21 here in New Haven?
- A Brother Landon, yes, he was -- no, not in New Haven; in New York.
- Q You testified already that you came here in April of 1969 to New Haven?
 - A Yes, sir, somewhere around there, probably did.
- Q And my question is, what were you going to do here in New Haven?

A At the time we came to New Haven, the first time we came to investigate something Brother Landon had here in New Haven at that time, I don't know what it was, but introduce ourselves to Brother Warren Kimbro, and we went over to Ericka Huggins' house and she began to tellus about this fellow named Jose.

MISS RORABACK: Your Honor, I don't know where I amat or where Mr. Markle is at, but whether I have a right to object to Mr. Garry's cross examination is something I have difficulty with, but I certainly object to going into conversations way back at that time.

THE COURT: Well, I think the question was answered without the details.

As I understand the answer, Mr. Williams came up here to investigate something.





And you came along with him, is that correct?

THE WITNESS: Yes, sir.

THE COURT: And you went to --

THE WITNESS: New Haven.

THE COURT: Some place in New Haven here?
THE WITNESS: Yes.

BY MR. GARRY:

Q Now, sir, you stated you went to New York. You were going to investigate the New York 21, is that correct?

A Yes, sir, and straighten out the Party there.

Ω Do you know when -- is it two assignments that you had; one to straighten out the Party, and one to investigate the indictment of the 21?

A All I know is was the problem with the New York 21, straighten out the whole Party there, that's all I know about two assignments, assignments.

- Ω Isn't it a fact that the New York 21 had their own lawyer to do their own investigating?
 - A I don't know, Mr. Garry.
 - Q You didn't meet with any of the lawyers, did you?
 - A Sir?

MR. GARRY: Could he read the question, your Honor.

THE COURT: It may be read.

(The last question by Mr. Garry was read by



the court reporter.)

THE WITNESS: Yes, we met with one lawyer,
the one happened to be in Baltimore Jail now for
some murder in Baltimore. His name was Tonzo (phonet:
or something, I don't know his name, I can't recall
it at this moment, but I did meet with him and he
was bothered about them not giving the New York 21
a fair enough bond. He was a young attorney.
He is in a Baltimore jail at the present time
for murder of another Panther.

BY MR. GARRY:

- Q Who told you that? Did Mr. Markle tell you that or did Mr. DeRosa tell you that?
 - A No, my attorney informed me of that.
 - Q Who is your attorney?
 - A Who is my attorney?
 - O Yes.
 - A George L. Eastman.
 - Q He told you that?
 - A Yes.
 - Q And so you met with this attorney, did you?
 - A Yes, I met with my attorney.
 - Q And who else was with you?
 - A Oh, at that time? Mr. Jack Donahue.

THE COURT: You are talking about two different





talking about the one in New York, I take it.

BY MR. GARRY:

- Q I am talking about the New York attorney that you met with that you say you discussed the matter of the 21 with him?
 - A Yes, I discussed it with him then.
- Q Well, Mr. Turko was never attorney for the New York 21, was he?

MR. MARKLE: I will object to that, if your Honor please. How would be know?

THE COURT: Apparently, he thought so. I don't know.

THE WITNESS: He represented himself as being the attorney for the New York 21.

- Q When did you meet with him?
- A I think it was around May, sometime in May, yes.
- Q You didn't meet with himin May, or was it in April that you met with him?
 - A No, somewhere around in May.
- Q Do you know when the New York 21 indictment came down?
 - A No. sir.
 - Q Do you know when any of the defendants in the New



York 21 were arrested?

- A No. It was somewhere early April, I believe.
- Ω You knew, did you not, that an Alex McKeever was a defendant in that case and he had already been arrested, did you not?
 - A No, sir, I didn't know that.
 - O Well, you knew an Alex McKeever was involved?
- A When Landon showed me the indictment slip, yes later on, yes.
 - Q What do you mean, "later on"?
- A Later on. Earlier, I didn't. I knew not the whole 21's names. All I knew was the Pantier 21. I am not familiar with any of the members in New Work City.
- Q Didn't the lawyers representing the New York 21 have their own investigating staff and they didn't need you, did they?
 - A I don'tknow, Mr. Garry.
 - Q Did they ask you to do some investigating for them?

 MR. MARKLE: I object.

THE COURT: Sustained. Argumentative. I don't know what the pertinence is either, frankly.

- Q How many times did you come to New Haven?
- A Twice, I believe.
- Q When was the first time?



- A When -- when we came to meet Mrs. -- when we came to Warren Kimbro's house, that was the first time.
 - Q My question was, when was the first time?
- A Somewhere around, maybe late April, May, that was the first time, and the second time was late in May.
- Q I thought you told me you never got to New York until May the 12th from California?
 - A That could have been an error there.
 - Q I beg your pardon?
 - A This could have been an error then.
 - Q Could have been an error?
- A I know it was April, May. I'm not familiar with the dates, Mr. Garry. All this time, there was a lot of confusion. You asking me to be verbatim and I don't think I can be verbatim with you. You asking me specifically what happened, second-for-second, and I don't think that you can, you know, make that distinction yourdelf of what happens to seconds and seconds. I didn't keep up with the days, you know.
- Q Didn*t I understand you to be specific yourself when Mr.Markle was asking you the questions in the Lonnie McLucas trial?

MR. MARKLE: I will object, if the Court please.
THE COURT: Sustained. Argumentative.



- Q When is the second time that you came to New Haven?
- A Oh, that was on a Saturday night, Mr. Garry.
- Q What Saturday night?
- A In May.
- Q In May?
- A Yes, sir.
- Q What date?
- A That could have been around 16th, 17th, 18th, it could have been somewhere around there. 19th, 20th. It could have been any one of them days around there.
- Q So you came here, it could have been on the 19th, is that right?
 - A No, sir, we was there on the 19th.
 - Q I beg your pardon?
- A We was there on the 19th, which was a Monday night. Sunday was the 18th. Saturday would be the 17th. Yes, the 17th.
- Q Sir, have you read your testimony that you have given in the McLucas trial?
 - A Yes, some of it, yes.
 - Q Did you read all of it?
 - A No, sir, not allof it.
 - Q Why not?
 - A Because I'm not just interested in reading a murder







case over and over and over, Mr. Garry.

Q I am talking about your testimony, not somebody else's testimony.

A No, I'm not interested in reading my testimony over and over and over, Mr. Garry.

- Q You were told to read it, were you not?
- A I was told to look into it, yes.
- Q Who told you?
- A Mr. Markle.
- Q Mr. Markle tells you what to do?
- A Sir?

MR. MARKLE: I will object.

BY MR. GARRY:

Q Mr. Markle tells you what to do?

MR. MARKLE: I will object, if the Court please.

I have a right to prepare a witness.

THE COURT: I will sustain the objection.

He has a right to prepare his witnesses, the same as you have.

MR. GARRY: That wasn't my question. I asked him if Mr. Markle tells him what to do.

THE COURT: I sustained the objection.

Take your exception, if you care to.

MR. GARRY: I take an exception.

THE COURT: Exception.



- Q How muchof your testimony did you read?
- A I looked over it, you know, ran through it, speed read it.
 - Q I beg your pardon?
 - A I speed read it, look through it.
 - Ω Speed read it?
 - A That is, read some of it; turn some of it.

MISS RORABACK: I'm sorry. Could that be read back.

THE COURT: Itmay be read back.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

- Q Did you read any of your prior statements?
- A Some of them, yes.
- Q Which ones did you read?
- A I read the one --

MR. MARKLE: I object, unless they come in, your Honor.

THE COURT: Overruled. It may be answered.

MR. MARKLE: Exception.

THE COURT: Exception may be noted.

THE WITNESS: No. I read, I think, the statement I had when I was met in Toronto, I think that's the one.

MR. GARRY: I didn't get that answer.

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

- Q Did you read the one that Sergeant DeRosa took from you before a court reporter here in this building?
- A Before a court reporter? I don't understand you, Mr. Garry.
 - Q I am told that that isn't so.
 - A Sir?
- Q Did you read one statement that you had given or three?
- A I just read one, one statement. I read some of that, I didn't read all of that, you know. He asked me, would I want to over my statement. I go over it, but I'm not going to read all of it, you know.
 - Q Who did you tell that to?
 - A Mr. DeRosa.
 - Q When did you see Mr. DeRosa?
 - A He came up to Brooklyn.
 - Q I said, when did you see him?
 - A Oh, that was around last year.
 - Q And you haven't seen him since last year?



A Yes, I seen him since last year. You asked me about the statement, Mr. Garry. That's what I am trying to be precise about, was the statement. That was around last year.

Q And he hasn't discussed the statement with you since then?

A Oh, he talked about my statement. He questioned me about it, just orally, you know. He didn't go over the statement with me; he just question me about it.

- O When was that?
- A That was last week.
- Q Now, did he have your statement in his hand and he was questioning you from it?
 - A No, I know he had a pad in his hand.
- Q And he was writing things down as you were giving those statements?
 - A No. sir.
 - Q What was he doing with the pad in his hand?
 - A He was just asking me questions.
 - Q He wasn't writing anything down?
 - A No, sir, not to my knowledge, he wasn't.
 - Q He was just reading from it?
 - A I don't know. He was just asking me questions.
 - Q You were watching him, weren't you?
 - A No, I don't watch people when I talk to them all the





time.

Q Q By the say, you have never been to Cuba, have you?

A Yes, once.

MR. MARKLE: I object.

THE COURT: He said yes. I will let it stand.

BY MR. GARRY:

Q When did you go to Cuba?

MR. MARKLE: I will object, if the Court please.

THE COURT: What is your claim?

What's your claim?

MR. GARRY: Well, he answered the question.

I am certainly entitled to go into it, when he went.

THE COURT: What for?

MR. GARRY: Because I want to know whether he has beenthere or not.

THE COURT: Maybe you have got the time for that some other time, but I am going to sustain the objection. I don't see its relevancy here.

MR. MARKLE: May the answer be stricken, so there isno question about it.

THE COURT: No, I will let the answer stand.

He said no - he said yes.

MR. GARRY: May I have an exception.

THE COURT: Exception.

Don't pursue it.

- Now, it's true, is it not, that Mr. Rackley came here voluntarily without anybody pushing him to come down here, is that correct?
 - A Yes, sir.
- Q And this is after you had beaten him up several times. Did he volunteer to come down here?
 - A Yes, sir.
- Q Was there anybody in New York that you talked to who said Alex Rackley was an informer?
 - A Yes, sir.
 - Ω Who?
 - A Landon Williams.
- Q Other than Landon Williams, did anybody ever say that Alex Rackley was an informer?
- A Who did I talk to? A lot of people said they thought he was an informer, yes.
 - Q Name one person.
- A Zayd, Janet, Yvette, a lot of people expressed that they thought Alex was an informer.
- Q Zayd told you that Alex Rackley, in his opinion, was an informer?
 - A Yes, sir.
 - Q As a matter of fact, he told you just the opposite,

did he not?

- A No, sir.
- Q Did you think at that time that Alex Rackley was an informer?
 - A No, sir.
 - Q You did not?
 - A (No response.)
 - O Did you ever think that Alex Rackley was an informer?
 - A Yes.
 - Q When did you think that he was an informer?
- A At the time that -- the first time Alex began to read Chairman Mao's book.
- Q Is that because anybody who can read Chairman Mao's book is an informer?
 - A No. sir.
- Ω What was there so magical about being an informer by reading Chairman Mao's book?
- A Well, some more peole in the office was disciplined because Rackley informed Landon and I that hecouldn't read, and at that time he picked up the book and he began to show signs as if though he was reading the book, so I figured that Alex, at that point, had been lying to I and Landon and the members in the New York Chapter.
- Q You had been around Mr. Rackley enough to know that he was illiterate and he was not he was not up to an



intelligence level that he could be able to even be an informer, had you not?

- A No, sir, I didn't consider --
- Q You had been around him almost a month by then?
- A Off and on.
- Q And you had beaten him up several times?
- A Only twice.
- Q And you had him try to get you some heroin at one time or other, isn't that right?
 - A No, sir.
 - Q You never asked him to get you some heroin?
 - A No, sir.
 - Q Didn't you used to use heroin?
 - A When I was about twelve, yes.
 - Q When is the last time you used any heroin?

 NR. MARKLE: I am going to object to this,

 if the Court please.

THE COURT: Sustained.

- Q Didn't you send Mr. Rackley to get yousome heroin?
- A No, sir.
- Q What did you send him to get?
- A Mr. Landon Williams ordered Rackley to go get some marijuana, and that's what he went and got.
 - Q Mr. Williams every time?

- A Yes, sir, he was my superior officer.
- Q As a matter of fact, Mr. Williams was never around there, isn't that right?
 - A No, sir.
- Q I believe you testified that Mr. Rackley showed cowardly tendencies, is that right?
 - A Yes, sir.
- Q Well, as a matter of fact, he stood up and started swinging with you, blow-for-blow, and almost knocked you out, isn't that right?
 - A No, sir.
- Q And that hurt your ego because you consider yourself pretty good with your dukes?
 - A No, sir.
- Q You don't consider yourself pretty good with your dukes?

MR. MARKLE: I am going to object.

THE COURT: Sustained.

BY MR. GARRY:

- Q You don't consider yourself a good in-fighter?
- A I don't know what you call a good fighter, Mr. Garry.
- Q It's not what I consider; what you consider yourself.
- A I don't consider anything good about fighting.

MR. MARKLE: I will object to that, your Honor.
THE COURT: Sustained.

- Q Is it your testimony that you don't do any fighting?
- A No, I didn't --

MR. MARKLE: Objection.

Just a minute, Mr. Sams.

If your Honor please, I am going to object.

We are way outside the line of anything that I asked him on direct.

THE COURT: I will sustain the objection.



- Q And it was because he was getting the best of you that you broke an oak stick on Mr. Rackley, did you not?
 - A No. sir.
 - Q You broke that oak stick to pieces, didn't you?
 - A No, sir.

MR. MARKLE: Your Honor -- all right.

BY MR. GARRY:

- Q Didyou hit Mr. Rackley with an oak stick?
- A Yes, sir.
- Q You took it away from Mr. Kimbro, isn't that right?
- A No, sir, Mr. Kimbro gave it to me.
- Q You didn't take it away from him?
- A No, he gave it to me.
- Q Did Mr. Kimbro tell you that he has testified to the fact that you took the stick away from him and started beating Alex Rackley with it?

MR.MARKLE: I am going to object, if the Court please.

THE COURT: Sustained.

MR. GARRY: I am going to come back to this again, your Honor, so I am not giving this point up on the question of the stick.

THE COURT: Try your case, Mr. Garry.
MR.GARRY: Thank you.



- Now, you beat Alex Rackley when he was defending himself with his own fist, you beat him and then you stomped on him, isn't that right?
 - A No, sir.
 - Q You never stomped on him, is that correct?
 - A No. sir.
- Q Page 1180 of your testimony in the McLucas trial, when Mr. Markle was asking you some questions. I want you to look at this, and see if this refreshes your memory, sir.

(Transcript shown to witness.)

A Where? Where you pertaining to?

MR. MARKLE: I am going to object, but I am going to ask the Court to examine what's been shown to the witness to see if it is inconsistent. I think it's only fair to the witness.

MR. GARRY: If your Honor please, I don't appreciate being said, "only fair to the witness."

THE COURT: Just relax.

He has been asked a question. Does it refresh his recollection.

MR. MARKLE: The question before that was, did he not stomp on Alex Rackley, to which he answered no.

THE COURT Then he was asked to read something

and see whether or not it refreshes his memory.

You may answer the question.

THE WITHESS: No, I still didn't stomp him.
BY MR. GARRY:

Q Does that refresh your testimony -- I mean refresh your memory as to what you said on that date?

MR. MARKLE: I object, if the Court please, because I don't think it is inconsistent with his testimony.

THE COURT: I don't know whether it is or not, but the witness has been asked the question, does this refresh his recollection, and he says, no, he didn't stomp on him. Now, Mr. Garry is entitled to ask him, well, didn't you testify on such and such a day, or whatever it is, that you did stomp him, if that's what it says.

MR. HARKLE: Yes, if that's what it says.

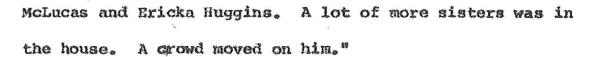
THE COURT: That's right, and that's what

Mr. Garry understands.

BY MR. GARRY:

Q Isn't it a fact, Mr. Sams, that on your testimony in the McLucas trial, the question was asked of you, "What discipline was administered to him at that stage?" And you answered, "He was stomped. He was beaten with sticks."

And then, "By whom?" The answer, "By I, Warren Kimbro, Lonnie



THE COURT: Are you claiming that's inconsistent with what he testified to?

MR. GARRY: Yes, he denied his stomping on him and in this he says I did.

THE COURT: I don't see the inconsistency at all. There were a number of people there.

MR. GARRY: My question was, did he stomp on him.

THE COURT: And he said no.

MR. GARRY: And the statement says, "I."

THE COURT: The jury has heard it. I will let it stay the way it is.

- Q You did stomp on him, did you not?
- A No. sir.

MR. MARKLE: Objected to.

THE COURT: He said, "No," he said, "No" twice.

It's been answered.

BY MR. GARRY:

- Q And then after you'd given him the kind of discipline that you have heretofore described -- by the way, while this was going on Mr. Landon Williams and Mr. Kory Hithe were not there, were they?
 - A No. sir.
 - Q They hadn't been there since -- when?
 - A Oh, they went in and out.
 - Q They weren't there all day Sunday, were they?
 - A All day?
 - Q Yes.
 - A No, they weren't there all day, no, sir.
 - Q They were not there?

THE COURT: I think you better clear up that question.

- Q They were not there Sunday at all, isn't that correct?
- A No, sir, that's not true.
- Q They were there Sunday?
- A Yes, sir.
- Q When did they get there, do you know?

- A Right after we finished interrogating Rackley.
- Q What time was that?
- A I don't know.
- Q You were there, I wasn't.
- A Yes. But I didn't keep up with time, you know.

 It was that morning he was interrogated. It could have been around, you know, I'm not sure what time it was. You asking me to make a specific time, and I can't do that.
- Q As a matter of fact, you don't have any independent recollection of any of these things; and these are matters that have been suggested to you, isn't that right?
 - A No. sir.
- Q They haven't been suggested to you by Sergeant DeRosa, and Mr. Flanagan, Mr. Markle?
 - A No. sir.
- Q What is your best recollection of when Mr. Landon Williams and Mr. Rory Hithe came there on Sunday?

MR. MARKLE: I'm going to object, if the Court please. He said he can't name the time.

THE COURT: Can you give us an approximation? Was it in the morning, or afternoon, or evening?

THE WITNESS: It was around sometime that morning.

BY MR. GARRY:

Q Sunday morning?

- A Yes, sir. Because they, -- they in the afternoon went to Adam Clayton Powell's conference that he had.
 - Q You are sure about that?
 - A Yes, sir.
- Q Was Mr. Landon Williams present before you gave the first beating to Mr. Rackley?
 - A I don't understand.

THE COURT: He's already answered that. He said he arrived after it was all over, after the interrogation.

- Q You were in charge of the entire movement, were you not, at that time?
 - A No, sir.
 - Q Who was in charge?
- A Ericka Huggins was in charge, and Warren Kimbro was in charge, and I was in charge.
- Q Well, you claimed to be the person that was in charge the minute Landon Williams wasn't there, isn't that true?
 - A No, sir.
- Q After you gave this whipping and stomping to Mr. Rackley, you also gave him three dollars to leave, isn't that right?
 - A Yes, sir.
 - Q And why were you going to have him leave?

A Because Alex Rackley was lying, and he was beaten.

And I knew what Party discipline was going to do for him.

And at that point I suggested it be best that Rackley get
out of the Party. In the Party, a member have two choices

if he don't know too much, that is, to be put out or suspended.

Q Did you think that Mr. Rackley at that point was an informer?

A No. sir.

Q Why were you swearing at Alex Rackley, and calling him a pig, and all of the other profamities that you used?

A I don't recall that, Mr. Garry.

Q You don't? You are not saying that you didn't use it, did you -- do you?

A No, sir, I didn't use it.

Q Beg pardon?

A No, sir. I didn't use it.

Q Is that because you don't use profanity?

A No --

MR. MARKIE: I'm going to object, if the Court please.

THE COURT: He answered. He said "No."
BY MR. GARRY:

Q No one had told you that Mr. Rackley was a pig up to that point, is that right?

A He was suspicious to be a pig, yes.

- Q Who told you he was "suspicion" to be a pig?
- A Mr. Landon Williams.
- Q And he told you to determine whether he is or not?
- A He told me to take the necessary precautions that was -- if he made a mistake -- and that was to interrogate him and check him out.
 - Q And you were the boss?
 - A Interrogation, to some degree, yes.
 - Q All "degrees"?
 - A No, sir.
- Q Well, there was no one else there who was a member of the Party, was there?
 - A Yes, sir.
 - Q Who else was a member of the Party?
 - A Ericka Huggins was a member of the Party.
- Q Outside of her was anybody else who was a member of the Party?
 - A The rest of them was acting members.

- Q Well, they weren't members of the Party, were they?
- A No.
- Q They were in the same category as yourself; you weren't a member of the Party, either, were you?
 - A Yes, I was a member of the Party.
 - Q Did you pay dues as a Party member?
 - A Dues -- yes.
 - Q Did you?
 - A Yes, I paid dues.
 - Q When were you a member of the Party?
- A I was a member of the Party ever since the last of 1968, of December, Mr. Garry.
 - Q Is that right?
 - A Yes, sir.
 - Q You were expelled at that time, were you not?
 - A Sir?
 - Q You were expelled in *68 of -- *68?
 - A For thirty days, yes.
 - Q You were expelled forever?
 - A No. sir.
 - Q Who reinstated you?
 - A The Central Committee.
 - Q The Central Committee reinstated you?
 - A Yes, sir.
 - Q When?

- A Oh, that was in December.
- Q December of what year?
- A 1968, Mr. Garry.
- Q You were not a member of the Party in February of 1969, were you?
 - A Yes, sir.
- Q Were you a member of the Party in May the 19th of 1969?
 - A Yes, sir.
 - Q You were not under any suspension?
 - A No, sir.
- Q Who got you back into the Party if, in fact, they did?

MR. MARKLE: I'm going to object.

Q Who interceded for you?

MR. MARKLE: I'm going to object.

THE COURT: I'll sustain the objection. He said the Central Committee, I think it was, reinstated him.

BY MR. GARRY:

Q Who in the Central Committee got you back into the Party?

MR. MARKLE: I'm going to object now, if the Court please. We have been through this.

THE COURT: Sustained.

BY MR. GARRY:

Q Who interceded for you in the Central Committee?

MR. MARKLE: Objection.

THE COURT: Sustained.

MR. GARRY: Judge, I'm satisfied, I've got -this is an important point, and I'm being prevented
from asking these questions. The Central Committee
is not a moving body. It's a -- I don't want to be
saying things that I shouldn't.

THE COURT: Take an exception if you care to, Mr. Garry.

MR. GARRY: I do take an exception.

THE COURT: All right.

BY MR. GARRY:

Q Who told you you were expelled from the Party?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: No, I'll let that one be answered.

- A Oh, Don Cox explained to me that I was expelled from the Party at that time.
 - Q Who told you that you were back into the Party?
 - A Don Cox.
 - Q The same person that said that you were expelled?
 - A Yes, sir.
 - Q As a matter of fact, Donald Cox wasn't even there in

December of 1968, was he?

- A Yes, sir, he was.
- Q Wasn't he in Alabama at that time?
- A No; we left later on for Alabama.
- Q When did you leave for Alabama?
- A Later on --

MR. MARKLE: Just a minute, your Honor.

Is this relevant?

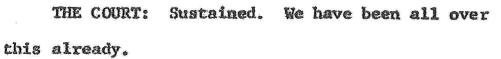
THE COURT: I'll sustain the objection.

BY MR. GARRY:

Q Mr. Landon Williams then told you to determine whether Alex Rackley was an informer or not, and once you had made that determination and you were satisfied he was not an informer he was to be permitted to go about his own normal business, isn't that right?

- A No, sir.
- Q Then, what did he tell you?
- A Mr. Landon Williams informed me, and the rest of the people in the house, that Alex was under suspicion of being an informer, and to check him out, if he violated any of the Party rules or policies.
- Q And the Party rules that he had violated was the fact that he had been interrogated in the manner that he came into the Party headquarters?

MR. MARKLE: Object.



BY MR. GARRY:

What other Party rules had he violated?
MR. MARKLE: He asked him to find out. If your Honor please, I don't think it's fair to the witness.

THE COURT: I'm going to sustain the objection, Mr. Garry. We have been over it, the Party rules violation.

BY MR. GARRY:

Q Didn't you tell us that he had violated some Party rules?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: I'll sustain the objection.

Q And that's why he was --

THE COURT: I'll sustain the objection.

BY MR. GARRY:

Q And why did you tell him that he could leave then and give three dollars to leave?

A As a member of the Party I suggested that he leave, and on his own he could leave the Black Panther Party at that point. As far as I was concerned he could leave.

Q And you gave him three dollars to do so?

- A Yes, sir.
- Q And it was after that that you went down and poured hot water all over him?
 - A Yes, sir.
- Q Was there something that you learned from the time that you told him that he could leave and you gave him three dollars, and then after he went down in the bagement was there something that you had learned in the meantime to cause you to pour hot water all over him?

A The only thing I learned at that point was that Alex Rackley wanted to accept Party discipline, and to be questioned.

- Q Whose idea was it to torture Alex Rackley?
- A Oh, the orders was, to discipline Alex Rackley came from Brother Landon.
 - Q Whose idea was it to torture him?
 - A Mr. Landon Williams.
 - Q Landon Williams?

THE COURT: I think perhaps this is a good point to take a break. We will have our afternoon recess.

(Whereupon the jury was excused at 3:30 P.M.)

THE COURT: Prepare to recess.

(A brief recess was held.)

(Page 1837 follows; no omission.)

(The court reconvened at 3:45 P.M.)

THE COURT: All set, counsel?

MR. MARKLE: Yes.

MR. ROSEN: Before the jury is called, I have a matter I would like to take up.

THE COURT: Surely.

MR. ROSEN: With regard to the competency hearing on Mr. Sams, some evidence was introduced relating to medical records of Mr. Sams, a record of drugs that he had taken and treatment and various other things, and those records were complete up to sometime in July, 1970.

We have subpoensed prison officials, who have complied with the subpoens, relative to short notice, and they are here in the courtroom, I believe, and we would like, for the purposes of completeness of that record, the record of the competency hearing, although it's formally terminated, I think that, in order to have a record, in order to have a picture of what your Honor ruled on and what the exhibits are which are already introduced, what they mean and what their sequel is, we would like to introduce those records, or at least mark them for identification at this time, although your Honor may rule them inadmissible.

THE COURT: Mr. Markle.

MR. MARKLE: The competency hearing is over, your Honor.

I have an objection to this whole procedure.

THE COURT: No, I can't permit that now.

My recollection is whatever records were here were shown to one of the doctors, I have ruled, and I will deny your motion.

MR. GARRY: Well, I have another reason for doing this besides that.

MISS RORABACK: Before that --

THE COURT: One at a time.

Now, the offer was made concerning the competency hearing, I already ruled on that.

I will deny your motion.

MISS RORABACK: May they be marked for identification, in any event?

THE COURT: The others were marked for identification, anyway.

MISS RORABACK: Well, I am asking that these be marked for identification.

THE COURT: Marked for identification in what, this case, not in the competency hearing?

MR. GARRY: This case.

THE COURT: Just in this case?

MISS RORABACK: Yes.

THE COURT: Not on the competency hearing?

All right, they can be marked for identifica-

tion.

MR. MARKLE: May they be impounded, your Honor, as a Court's exhibit?

MR. GARRY: They should not be impounded if they are --

THE COURT: They are marked for identification, period.

MR. MARKLE: If your Honor please, they would not, at this stage, be admitted.

Now, what your Honor is doing is, without examining them, marking them for identification, and then they are open to defense counsel for whatever use they want to use them, your Honor, and I think it's improper, unless it has some relevancy, because --

THE COURT: I don't know whether they have or they haven't, but if they want to mark that chair over there for identification, they can.

MR. MARKLE: And I would respectfully call your Honor's attention to State against Hayes on the subpoena, and other cases, that hold ---

THE COURT: No. If they want to offer them

for identification only, all right.

Is there any question as to their source?

MR. MARKLE: Yes.

They are coming from the prison records, and I think there is a confidentiality here.

THE COURT: Then offer them at the proper time -- we are now in the middle of examining Mr. Sams.

When the time comes, they will be available.

MR. GARRY: If your Honor please, that's what I was trying to tell you, the purpose of the offer, having them here so that they will be an aid to cross-examination. Questions are going to be asked about certain matters --

THE COURT: Now, you are asking me to interrupt this witness so that you can put the people from the prison, with their records, on?

MR. GARRY: That's all.

THE COURT: Is that what you are asking?

I will permit that.

MR. GARRY: Thank you, your Honor.

THE COURT: Let's go.

I take it you want to do that out of the presence of the jury?

MR. GARRY: Yes.

THE COURT: All right.

MR. MARKLE: For the State's protection, I am objecting to this procedure, and I am going to raise the case of State against Hayes, 127 Conn. 602, in which the Supreme Court of this State said that the document should be inspected by the Court first before it is turned over to the defense, and I don't --

THE COURT: We haven't reached that stage.

MR. MARKLE: But your Honor ruled --

THE COURT: I said you can bring them here and offer them for identification.

If you have something you want to say on the record, put it on the table, say it.

MR. MARKLE: All right.

ANDRE

LaPAGE,

of Kimble Road, Lisbon, Connecticut, having been called as a witness by the defendants, was duly sworn and testified as follows:

DIRECT EXAMINATION BY MR. GARRY:

- O Mr. LaPage, what is your occupation?
- A I am a Correctional Captain in the Department of Corrections, assigned to Brooklyn Division.
- Ω And do you have within you the control of the records of Mr. George Sams, Jr.?
 - A Yes, I do.
- Q And you searched the records and you brought all those with you?
 - A Yes, sir.
 - Q And they are kept in the regular order of business?
 - A Yes, they are.
 - Q In the prison?
 - A Yes.

MR. GARRY: At this time, may I see them?

MR.MARKLE: I object at this time, your Honor.

THE COURT: What is your grounds?

MR. MARKLE: All the records?

How could they be relevant?

THE COURT: I don't know whether they are or not.

MR. HARKLE: I would ask your Honor to examine them under State against Hayes.

THE COURT: All right, I will do that.

MISS RORABACK: If your Honor please, just for the record, I am joining in this offer, I might say, when and if we get to it, and I would object to our not having the opportunity to examine what we are offering.

We may or may not want to offer this, and for Mr. Markle to shortcut it so we don't have a chance to, --

THE COURT: We are only marking it for identification.

MISS RORABACK: That's correct, your Honor, but I am just stating I think --

THE COURT: Let me look at them and see where we are.

(The witness handed documents to the Court.)

THE COURT: Are these records supposed to be records from July?

MISS RORABACK: I believe that's correct.

THE COURT: July of 1970 to date?

MR. GARRY: We have the others.

THE COURT: Were those originals that were previously marked, or were they copies that were

made?

Does anybody know?

MR. ROSEN: I think they were Xerox copies.

THE COURT: Nerox copies.

I'm talking about the medication record.

That's what you have?

MR. GARRY: Yes.

THE COURT: Is that a Xerox copy?

MR. ROSEN: I think it was a Xerox.

THE COURT: Because I've got the originals all the way back here to 1969, but my recollection is --

MR. GARRY: I think they were here.

THE COURT: Take a look.

MR. MARKLE: I think the department was -- I think they came down at that time with copies.

THE COURT: My recollection is we put in copies and they kept the original records.

MR. GARRY: One of them looked like a Xerox copy to me.

THE COURT: The cards.

THE CLERK: They are all Xerox copies.

THE COURT: That's what happened.

All right, this is the balance of that.

MR. MARKLE: Well, before your Honor rules, might I be heard?

()

THE COURT: Yes, go ahead.

MR. MARKLE: I want to cite, your Honor, Hurley against Connecticut, which is, in my opinion, your Honor, I respectfully submit, directly in point, and it's 118 Connecticut, more particularly 284, and that case said, "In the exercise of this discretion, " -- citing the Court had discretion, after having examined the document, -- "the paper should not be subjected to the inspection of opposing counsel unless it serves some legitimate purpose, such as refreshing the recollection of the witness, or contradicting his testimony. If the report contains matter not proper for opposing counsel to have and other matter which is relevant and proper, the dourt may require the party in possession to furnish opposing counsel a copy of the proper portion. It should not be submitted to opposing counsel if the court is satisfied that the latter is merely on a 'fishing expedition' to procure evidence. That cites Katz against Richman -- Katz against Richman, 114 Connecticut 165 at 171; Spiney against Boston Elevated Ry. Co., 188 Mass. 30, Page 37, 73 New England 1021.

That case is also cited with approval, if the

Court please, in State against Mayes, in which they said, "...where a document is produced in court by the adverse party upon order, the trial court, having inspected the document, has a discretion to permit or refuse inspection by opposing counsel."

"In this instance, an examination of the portions of the testimony withheld from the defendants amply justifies the disposition made of the matter by the trial court, and shows that no prejudice was caused them by its ruling." That's at 127 Connecticut, more particularly Page 602.

It's my contention, your Honor, that this is a fishing expedition to procure evidence, and I don't know where it will go, and I think it's just that again we are going into collateral issues, and it has no relevance at this stage.

How do they represent they want to examine from them, how dan they do this, if they don't know what is in there? THE COURT: Miss Roraback.

MISS RORABACK: Could I just point out to your

Honor that I have not reviewed those cases

immediately, you know, very recently, but I believe

that Mr. Markle was referring to Hurley versus

Connecticut Company, is that correct, not Connecticut -

MR.MARKLE: Well, what it says, does your Honor want to examine it?

MISS RORABACK: It's Connecticut Company.
THE COURT: I don't need it.

MISS RORABACK: That was a civil action, your Honor, involving, as I remember it, the right of the plaintiff or defendant to see statements taken by opposing parties of potential witnesses, or a witness who was testifying.

The second case, the Hayes case, as I remember that portion of it, relates to the right of a defendant to examine grand jury minutes of testimony of a witness.

I think neither of these are relevant to the issue before your Honor. I would just like to point that out.

THE COURT: What issue are you claiming that you should have the right to examine?

MISS RORABACK: I think we have a right to



I don't think any privilege attaches to records under the Statute. As far as hospital records go, we have a right to those records being brought in, and this is equivalent of that type of record.

THE COURT: I understand that, but what issue are you claiming you have the right to use these on?

MISS RORABACK: Well, your Honor, in the first place, I think the question of medication of Mr. Sams is relevant to his condition when he testifies on the witness stand, and I think we ought to be able to ascertain, from the records of the prison, just what medication he is being given.

In the second place, I think if Mr. Sams, while he has been incarcerated, has, in the opinion of the authorities at Brooklyn, or wherever he is being held, angaged in such conduct that he requires medication of a tranquillizer variety, or something of a stronger variety, such as Thorazine, I think we have a right to know what the basis for that is, what sort of action he has been engaging in, and I would claim it on both grounds.

MR. GARRY: I join in that.

MR. MARKLE: If the Court does that, it opens

a wide door and it will be cited as precedent, and I think it's a very serious issue.

THE COURT: I've probably been cited for precedent before --

MR. MARKLE: It will be cited in this case.

THE COURT: For one thing or another.

I am going to permit the balance of the medication record to be photostated and marked for identification, and that, I take it, would run from — what is the last date there you have?

MR. GARRY: July something.

THE COURT: I guess the last card would be July 27th.

MISS RORABACK: 1970.

THE COURT: July 27th.

So, I will let these be marked with the agreement of counsel that Mr. LaPage may take them back and return photocopies from the card, commencing in July.

MISS RORABACK: There is some sort of —

it looks like anoverlapping between one card and the

next, your Honor, but the one that's here, which is

apparently the last of these records, have

approximately five entries on it, the last of which

is 7/27. (Indicating)

THE COURT: That's right, that's the one with the sticker on it, so --

MISS RORABACK: There may have been things added after that.

THE COURT: Not on that card.

They started a new card.

MISS RORABACK: It goes down to 7/27.

THE COURT: That's right.

They started a new card.

MISS RORABACK: I see.

THE COURT: So, commencing with the card dated 7/29/70, those are all to be photostated.

I will let these be marked for identification.

MR. MARKLE: MayI have an exception, your Honor?

THE COURT: Exception may be noted.

MR. MARKLE: Thank you.

THE COURT: Now, these other records here, in the opinion of the Court, they should not be admitted, and I am returning them.

MISS RORABACK: If your Honor please, I would ask that they be marked for identification for the record.

THE COURT: Well, I am going to seal them.

May I have your envelope?

Do you have an envelope there?

THE CLERK: Yes, your Honor.

(An envelope was handed to the Court by the Clerk.)

THE COURT: For the record, the Court's ruling is that it would raise collateral issues and only cloud the issues in this case, so this may be marked for identification and is not to be opened without the permission of this Court.

This would be Defendants -- for both parties?

MR. GARRY: A joint exhibit for both of us.

THE COURT: The medical records would be "6," and the other records would be "7."

THE CLERK: "6" in Mr. Seale's, and No. 3 in Mrs. Huggins'.

THE COURT: That's right, yes.

For identification only.

THE CLERK: Yes, your Honor.

(The documents referred to were marked as DEFENDANT SEALE'S EXHIBIT 5 FOR IDENTIFICATION and DEFENDANT HUGGINS' EXHIBIT 3 FOR IDENTIFICATION, respectively.)

(Page1852 follows - no omission)

THE COURT: All right.

Do you need that today or tomorrow?

MISS RORABACK: Can I have a moment to look at it, your Honor?

THE COURT: It's very similar to the one that you already have, as I recall it.

MR. GARRY: We will be adjourning in a little while. If the witness can just wait and he can bring it back tomorrow.

THE COURT: That's what I was asking. I would let him go now. He can get it photocopied or send it down tomorrow, the part that has to be photocopied.

MR. GARRY: If he can get it here around 9:30 -- MISS RORABACK: Just weit a few seconds.

MR. GARRY: She wants to look at it a couple of seconds.

MISS RORABACK: It seems to end at January 27, 1971, your Honor.

THE COURT: I didn't notice the last date.

MISS RORABACK: That's on the card.

Could I just --

THE COURT: Yes.

CROSS-EXAMINATION BY MISS RORABACK:

Could you tell me whether or not there are any Q additional cards of the sort that comprise the major portion of this Defendant's Exhibit 6 for identification after this one that has a closing date of January 27, 1971?

No. Approximately at that time we discontinued the cards and we went to the new process we have now.

And this refers to the prescription of medication -you talk about the new process. These are the two longer sheets that are attached here?

Yes. A

And that refers to the prescriptions but not the Q actual dosages given, is that right?

Yes, they do. A

I am talking now about the second page of the long sheets, the eight and a half by eleven sheets, does that show Q each time and date and hour that medication was given?

No, they do not. A

MR. MARKLE: Are we now asking this man? THE COURT: She is trying to find out what happened between the end of January and today. That's all she is trying to find out.

MR. MARKLE: He just told her that it's there. MISS RORABACK: He just said that it did not show.

THE COURT: Relax.

Ask him.

BY MISS RORABACK:

Q As I understood your answer, you stated this does not show the actual date and times when various medicines are given to the inmate, is that correct?

A No, not on this slip here. We have a medical chart on which we keep account of prescriptions or tablets that are given, at what time, and who to. I can see that these can get down here tomorrow.

- Q Fine, if you would.
- A This is just the doctor's examining --

MR. MARKLE: Did I understand correctly, the witness was going to bring them down tomorrow morning?

I trust your Honor will look at them first.

THE COURT: Sure, I'll look at them.

MR. MARKLE: Because I am going to have the same objection.

THE COURT: It has the same information as is contained on the cards except in a different fashion.

THE WITNESS: Yes, the form on the back is just what the doctor prescribed. In a separate log book for drugs or an y medications --

THE COURT: Is it a log book?

THE WITNESS: Yes.

THE COURT: Have you got a photocopy machine?

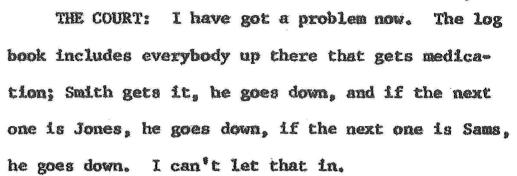
THE WITNESS: Yes.

THE COURT: Make sure you photocopy the pages from January.

Does it include all other people, too, in the log book?

THE WITNESS: Yes, it does, your Honor.

MISS RORABACK: I have no other questions,
your Honor.



If you want to, I will let him bring the log book down and you can look at it.

MR. GARRY: If we can just work from it -- we don't even need it for any other purpose.

MR. MARKLE: I have a standing objection.

THE COURT: I understand, Mr. Markle, and I have overruled your objection, and these medication records are going in. I have already let them in. It isn't until now that we discovered that from January to date they aren't here.

MR. MARKLE: They are marked for identification.

THE COURT: For identification. I have got to.

Tell me how I can't.

MR. MARKLE: I am just making the same objection so the State is protected.

THE COURT: Bring down your log book tomorrow morning.

Let's see where we go from there. Maybe we can make some copies here or something like that.

All right.

Now, does that straighten out everything?

MISS RORABACK: Just for the record, I believe
-- I don't even remember the numbers. There was
one exhibit impounded and we were not permitted to
examine it.

THE COURT: 7 in your case; 4 in yours.

MISS RORABACK: I would like to take exception to the fact that we are not permitted to examine it.

MR. GARRY: For both parties.

THE COURT: Yes, both parties.

He will bring the log book down.

You can show it to them when you get down here in the morning and see what you can work out. Maybe you are not even interested.

MR. GARRY: If it stays here a day or so --

THE COURT: They have to bring it back. They have to make entries up there, I take it.

Is that correct?

THE WITNESS: Yes.

THE COURT: In this book.

That applies to everybody up there?

THE WITNESS: Yes, sir. What we have now, we have a certain drug or whatever the case may be, aspirin, or whatever it is, whatever is passed out, it is continuance, more or less of the drug count,

a pill count.

THE GOURT: All right?

MISS RORABACK: Yes.

THE COURT: Somebody is going to have to use a substitute book tomorrow.

Any more from this witness?

MISS RORABACK: No.

THE COURT: You are excused.

(The witness was excused.)

THE COURT: All set?

Call the jury. Wait a minute. Wait a minute.

We killed the rest of the afternoon on that, pretty much.

Is there much point in trying to pick up for ten minutes on cross-examination, because I was going to break at 4:30.

MR. GARRY: I could ask a couple of questions.

I don't mind one way or another. It is up to your

Honor. It's been a long day.

THE COURT: Well, it isn't that. It's the break and breaking again. You forget where you are. I practiced for some time and it was always quite annoying to do that.

I think I will let the jury go now and come back tomorrow morning.

Try to get here early tomorrow morning so we can look at this.

MR. GARRY: I get here at 9:30.

THE COURT: Try to do that.

MR. GARRY: Only she looks at them a little more carefully.

THE COURT: That is characteristic of ladies. Bring in the jury.

(The jury entered the courtroom at 4:20 P.M.)

THE COURT: Ladies and gentlemen, we have been doing some other things about records that I had to work with counsel on, and with the time as it is, I don't think it would be helpful to you or counsel to resume cross-examination for ten minutes, so I am going to recess for the day now and pick up fresh and go right through tomorrow morning.

I think it is difficult enough for everybody
to keep their minds related to what's going on without breaking it up into little pieces like ten
minutes, so I am going to excuse you now for the
day. I will see you all tomorrow morning.

Remember my admonition. Stay away from radio and television and the press, magazines, periodicals of any kind, any stories or reports concerning this case or the Panther Party or any of the principals

of the Panther Party, anything even remotely connected with it and, of course, no discussions with anyone about those subjects.

Finally, remember every day we hear a little bit more. Wait until it is all over before we start discussing it.

Have a nice, safe trip home and we'll see you in the morning.

(The jury was excused at 4:22 P.M.)

THE COURT: Prepare to recess for the day.

Adjourn court, Sheriff, until tomorrow morning at 10:00 o'clock.

(The court adjourned at 4:25 P.M.)

\underline{W} \underline{I} \underline{T} \underline{N} \underline{E} \underline{S} \underline{S} \underline{E} \underline{S}

Name
Direct Cross Redirect Recross

GEORGE SAME, JR.
(By Mr. Garry)

1682

ANDRE LaPAGE (Ny Mr. Garry)

1842

EXHIBITS FOR THE DEFENSE

NO. DESCRIPTION

FOR IDENT.

IN EVID.

DEFENDART SEALE'S EXHIBIT

6 Nedical Records

1851

DEFENDANT HUGGINS EXHIBIT

Medical Records

1851

VOLUME NO. 17

NO. 15681

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

ERICKA HUGGINS

APRIL 23, 1971

NO. 15844

STATE OF CONNECTICUT

SUPERIOR COURT

vs.

NEW HAVEN COUNTY

BOBBY G. SEALE

APRIL 23, 1971

Before:

HON. HAROLD M. MULVEY, Judge

& Jury (12)

Appearances:

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- and -

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Representing the defendant

Bobby G. Seale

COURT REPORTERS:

Arthur E. Moan, Jr. Walter Rochow

David Tilewick

MORNING SESSION

Friday, April 23, 1971

(The court opened at 10:04 A.M.)

THE COURT: All set, counsel?

MR. MARKLE: Yes, sir.

THE COURT: Now, did you look at the substitute that was made for Exhibit 6 for Identification?

MR. GARRY: Yes.

THE COURT: You checked that out?

MR. CLERK: Did you give the original back to Mr. LaPage?

THE CLERK: I gave it back to Mr. LaPage.

THE COURT: So that's straightened out.

Now, you have the log.

MISS RORABACK: This, your Honor.

I think perhaps, your Honor, these records seem to be broken down by the type of drug, and it might be best if we could just read into the record what medications are shown for each day, since he does not want to leave these records and they include other persons.

THE COURT: Well, I can't let you read it into the record because it's marked for identification.

MISS RORABACK: Might I suggest that copies be

made of this, your Honor, because on each page of these records the name of Mr. Sams appears.

THE COURT: Let me see it for a moment.

(Miss Roraback handed a document to the Court.)

THE COURT: Well, wouldn't it be possible for someone to head up a sheet of yellow sheets, in legal cap, --

MISS RORABACK: And make exact entries?

THE COURT: -- make the exact entries, just write it out, and the same for the next drug, do it that way, and leave everything out except the entries for Same.

How does that sound, Mr. Markle?

MR. MARKLE: I have a continuing objection to the whole thing.

THE COURT: I understand that, but insofar as substituting that sheet for these original logs of the prison.

MR. MARKLE: If they want to make a copy, it's fine with me.

THE COURT: Do it that way, and give everyone else a copy, and then those sheets you make up will be added to Exhibit 6 for Identification.

MR. GARRY: Do we have to take the time to do that now, your Honor?

THE COURT: Well, I would like to get him on his way, Mr. LaPage, but you can go on with your cross, can't you, while Mr. Rosen is making a copy?

MR. GARRY: I'm ready to go.

THE COURT: All right, let's go.

Call the jury.

Bring in Mr. Sams.

(The jury entered the courtroom at 10:10 A.M.)

THE COURT: Good morning, ladies and gentlemen.

MR. GARRY: If the Court please, where is the witness?

THE COURT: He is being brought in.

MR. GARRY: Oh.

(The witness resumed the witness stand.)

THE COURT: All right, you may be seated, Mr.

You have been sworn.

Mr. Garry.

Sams.

MR. GARRY: I wonder if the court reporter, your Honor, could read the last page or two of yesterday's testimony, so we will have continuity.

THE COURT: Do you have it here, Mr. Reporter?

(The court reporter answered affirmatively.)

(The court reporter read the bottom half of Page 1835 up to the last question on Page 1836.)

CROSS EXAMINATION BY MR. GARRY: (Continued)

- Q You recall testifying in the trial of Mr. Lonnie McLucas, where you told the Court and jury at that time, under oath, that it was your idea to torture him?
 - A Yes, sir.
- Q I believe you told us yesterday that you were not in charge when Landon Williams was not there, is that correct?
 - A Yes, sir, I think so.
 - Q That was not true, was it?
 - A Yes, sir. To some degree, yes.
- Q Isn't it a fact that you told the Court and jury in the Lonnie McLucas trial, on two separate occasions, that when Mr. Landon Williams was not there, you were in absolute charge?
- A I don't know about two occasions. One time I remember saying it, yes.
 - O Was that the truth?
 - A Yes, sir.
- Q As a matter of fact, you said it on several occasions, -
 - a Sir?
 - Q -- did you not?
 - A (No response.)
 - Q You said it on two separate occasions?
 - A No, I don't recall that, Mr. Garry.





- Q You don't recall that, is that right?
- A Right.
- Q By the way, who was present when you said that Mr. Seale came upstairs where Mr. Rackley was?
- A Oh, Landon Williams, Rory Hithe, I and Mr. Warren Kimbro.
 - Q Mr. Warren Kimbro was there?
 - A Yes, sir.
 - Q How about Loretta Luckes?
 - A I introduced to her coming out of the room.
 - Q That's not true, is it?
 - A Yes, sir.
 - Q It's not true that Mr. Kimbro was there, --
 - A Yes, sir, it is.
 - Q -- is it?
 - A Yes.
 - Q You are positive about that?
 - A Yes, sir.
- Q As a matter of fact, Mr. Landon Williams wasn't there?
 - A Yes, sir, he was there.
 - Q And neither was Mr. Rory Hithe?
 - A Yes, he was there.
 - Q And neither was Mr. Seale?
 - A Yes, sir, Seales was there. Bobby Seales was there





in that room when he gave the order to kill Alex Rackley, Mr. Garry. Bobby Seales was there. I'm positive that Chairman Bobby Seales was there.

- Q You are positive?
- A Yes, sir.
- Q But you're the only one that knows about that, isn't that right?
 - A No, sir.
 - O You don't like Bobby Seale, do you?
 - A No, sir.
 - Q You like him --
- A I don't have no dislike about him, no, sir. I may disagrees with him, but I don't have no dislikes about him.
- Q You were out to destroy the Black Panther Party, were you not?
 - A No, sir.
- Ω You never were out to destroy the Black Panther Party?
 - A No. sir.
- Q You never told anybody you were out to destroy the Black Panther Party?
 - A That's right.
 - MR. MARKLE: I'm going to object, if the Court please.

We are outside the scope of my direct. I don't



see any relevance to this at all.

THE COURT: Cross examination.

This type of questioning - well, I will overrule the objection.

MR. MARKLE: Well, then, before your Honor overrules it, can we have — if we are going to talk about when, can we find out when this was supposedly said or done?

THE COURT: He said "never."

MR. MARKLE: Oh, all right.

May I have an exception?

THE COURT: Exception may be noted.

A No, sir.

BY MR. GARRY:

- Q Never have said it?
- A No. sir.
- Q Do you recall making a statement that was recorded by transcription machine on August 17, 1969, in Toronto, Canada? Recall that?
 - A May I see the transcript?
 - Q Do you recall making the statement?
- A I don't know what date it was on, Mr. Garry. I'd like to see the transcript.
- Q Before I show you the transcript, I am going to find out whether you ever recall making a tape on that day.
 - A I don't know what date it was, Mr. Garry. I made a --
- Q And Mr. Sergeant DeRosa and Mr. Flanagan were present, do you recall that?
 - A I remember when they was present, yes.
- Q It was the day after you made a statement to the FBI. Recall that day?
 - A I recall the day I made the statement to the FBI, yes.
 - Q And do you recall saying, "I have every intentions..."

THE COURT: Wait a minute. Don't read it.

Show it to him.

MR. MARKLE: Can we have the page he is showing



him.

MR. GARRY: Page 52.

(Transcript shown to witness.)

BY MR. GARRY:

- Q Is it true that you said, "I have every intentions of destroying the Party, the Party, period"?
 - A No. sir.
 - Q You didn't say that?
 - A No, sir.
- Q So if it's in this tape recording of yours, that's an incorrect transcription, is it?
- A To some degree. I think I remember stating to Mr. Sergeant DeRosa that I had every intentions of exposing the Black Panther Party, and if it means destroying it to that degree of telling the truth, I would, you know. That was my whole conversation with Mr. DeRosa.
- Q And you didn't say, "I have every intentions of destroying the Party, the Party, period"?

MR. MARKLE: I am going to object, your Honor. He just stated it.

You can't take one thing out of context.

MR. GARRY: I am not taking anything out of context, your Honor.

MR. MARKLE: May I finish my objection, your Honor?



You can't stand there with a statement and take a statement out of context and claim that's it.

It's not fair to the witness, your Honor.

THE COURT: It's repetitious, anyway.

You have been over it. You showed it to him. He denied it. He read it, and he said, no, he didn't say that when he gave his statement. The jury has heard both sides of it.

BY MR. GARRY:

Q This is what the statement says?

MR. MARKLE: I object to it. It's been

answered.

MR. GARRY: That's not been answered.

THE COURT: I will sustain the objection. I think he has answered it to the degree that he cares to answer it, let's put it that way. He gave an explanation.

BY MR. GARRY:

- Q I believe you stated yesterday, sir, that someone said in the course of what automobile to take, that Mr. Kimbro's car was too well known by the police and another automobile was going to have to be taken?
 - A This was Kimbro saying it.
 - Q I beg your pardon?
 - A This is what Kimbro stated, that some other car had

to be taken.

- Q Mr. Kimbro stated, did he not, that his car was too well known to the police and another car had to be taken?
 - A Yes, sir.
 - Q Where did this conversation take place?
- A In the house, somewhere right in the living room hall, I believe.

MISS RORABACK: I'm sorry.

Could I have that read back?

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

- Q Isn't it a fact, sir, that you told Mr. Kimbro,
 "If you believe -- if you think that Alex Rackley is a pig,
 kill him"?
 - A Yes, at one point, at one time, yes, I do, yes.
- Q And you so testified in the bail hearing in this very same courtroom, is that right?

MR. MARKLE: I object, if the Court please.
There is no --

THE COURT: He just agreed that he did say that at one time. That's an answer to your question.

BY MR. GARRY:

Q It's true, is it not, sir, that you have a purpose and an aim to help the prosecution, even if you have to manufacture evidence?

MR. MARKIE: I am going to object to that, if the Court please.

THE COURT: I will sustain the objection.

MR. GARRY: Let me put it another way, your

Honor.

BY MR. GARRY:

Q It's true, is it not, that you will adjust the facts to what you believe will be helpful to the prosecution, even when you, yourself, do not know anything about the facts?

A No, sir, that's not true, Mr. Garry.

Q That's not true. Isn't it a fact that you have testified heretofore that it was Lonnie McLucas -- I mean it was Warren Kimbro who drove the automobile and not Lonnie McLucas?

MR. MARKLE: I am going to object to that, if the Court please.

THE COURT: Ground?

MR. MARKLE: That it's just not a fact.

THE COURT: He can answer that. You are not going to testify.

A Could you restate that?

Q Yes, be happy to.

THE COURT: Read the question.

Q Isn't it a fact that you have heretofore testified, except yesterday, that it was Warren Kimbro who drove the automobile when you took Alex Rackley out?

- A No. sir.
- Q Never did?
- A No. sir.
- Q Positive?
- A Yes, sir.
- Q Did you make a statement to that effect to Sergeant
 DeRosa or to any law enforcement agency that it was Warren
 Kimbro who drove that automobile?

A I think at one time or another, Mr. DeRosa asked me who was driving the car and he didn't specifically say where and when, and I said that Warren had drove the car at one time, which he did on the way back from the scene, Warren Kimbro drove the car, and that's what I tried to get across to Mr. DeRosa. Now, how he put it on the statement, I definitely don't know, Mr. Garry.

THE WITNESS: Could I have some water?

THE COURT: Sheriff, would you get him some water.

(The Sheriff complied.)

BY MR. GARRY:

Q I want to refer you, sir, to a question and answer that preceded with you on the 16th day of August, 1969 --

A Excuse me, Mr. Garry. Wait a minute. Let me see that. You tell me the 17th. Iheard I made statements on the 19th. Could I see it, please?

Q I am going to show it to you.

THE COURT: Just relax.

BY MR. GARRY:

Q I amoing to show you a statement that you made on the 16th day of August, 1969, at the hour of 3:35 P. M., and Sergeant Vincent DeRosa was there, and you signed the document. I want to show you the whole document.

(Statement shown to witness.)

- A What do you want me to see?
- Q I want you to feel satisfied that that's your signature on there, a copy of your signature, a photostat copy or a Xerox copy of your signature. Is it not?
- A Yes, this is about my rights as an attorney. What about the statement? Is this over here?
 - Q Are you satisfied now that that is your signature?
 - A Yes, sir.
 - Q Look at Page 9.
 - A Where is Page 9 at?

- Q There it is.
- A What do you --
- Q What does it say?
- A That's Page 9 up there. What are you pertaining to?
- Q The top two, the top two, three or four lines. What does it say?
 - A "Q. What happened at this point?"
 - "A. Landon brought..." --

THE COURT: Read it to yourself.

MR. MARKLE: I have no objection, at this point, to him reading it.

THE COURT: You want him to read it aloud? No objection?

MR. MARKLE: Not in this case.

MISS RORABACK: Your Honor --

THE COURT: You object?

MISS RORABACK: I believe I have lost track.

I believe this was a conversation at which my
client was not present.

THE COURT: He is reading at the top of Page 9 from the statement that he gave to Officer DeRosa on August 16, 1969, isn't that right, Mr. Garry?

MR. GARRY: That's right.

BY MR. GARRY:

Q This is what you want to read, right here.

(Indicating)

MR. MARKLE: I want him to read where he started.

THE COURT: The top of Page 9.

MR. GARRY: It is not what counsel wants read.

I already pointed it out to him.

THE WITNESS: What do you want me to say, Mr. Garry?

THE COURT: Page 9, is that what you told him to read?

MR. GARRY: Yes, your Honor.

BY MR. GARRY:

Q I want you to read down to here.
(Indicating)

A Down to here, all right.

MISS RORABACK: I object to what happened or what occurred outside of the presence of my client, your Honor.

THE COURT: I will overrule your objection.

MISS RORABACK: May exception be noted.

THE COURT: Exception.

BY MR. GARRY:

- Q Right down to your answer, read the question and the answer.
 - A "Q. What happened then?"

MR. MARKLE: I will object to that.

He wasshown a page and asked to read and he started to read it and then stopped.

THE COURT: He is starting to read again now.

MR. MARKLE: Not from the top of Page 9.

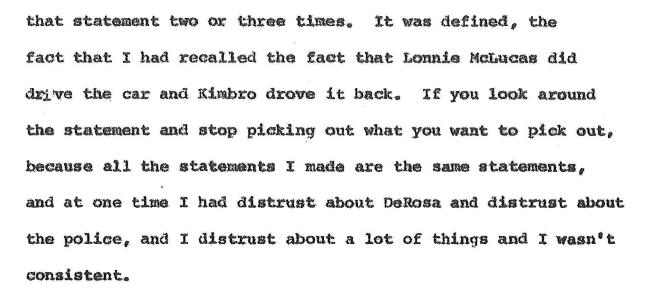
THE WITNESS: "Q. What happened at this point?"

THE COURT: Go ahead.

THE WITNESS: "A. Landon brought Alex out to the car, he was leading him with the wire around his neck. He put him in the back seat. Warren drove the car." I see that.

BY MR. GARRY:

- O Is that true that Warren Kimbro drove the car?
- A No, sir, that's not true.
- Q When did anybody tell you that that was not true?
- A I told Mr. DeRosa later on that that wasn't true, that Warren drove the car. Warren Kimbro drove the car back, and Lonnie McLucas drove the carthere.
- Q When did you ever tell Mr. McLucas that that that was not true -- I mean, when did you tell Mr. DeRosa that that was not true?
 - A I don't understand what you're saying, Mr. Garry.
- Q When did you tell Mr. Sergeant DeRosa that that statement was not true?
 - A Later on that evening, I told Mr. DeRosa, went over



- Q So you said anything that came to your mind?
- A No, sir.
- Q Without regard to any of the factual matters?
- A No. sir.
- Q And when did you tell Sergeant DeRosa that it was Warren Kimbro that drove the car?
- A Oh, I guess it was error. I am allowed to make a mistake, Mr. Garry.

- Q I believe you stated that you corrected it that night, is that right?
 - A Yes, sir.
 - Q To Sergeant DeRosa?
 - A Yes, sir.
 - Q You are sure about that?
 - A Yes.
 - Q Positive?
 - A Yes, sir.
- Q All right, sir. I call your attention to a long statement that you made on the 21st of August, 1969, and that was at 8:50 P.M., the 21st of August, 1969, and it was here in New Haven, and in the presence of Sergeant Vincent DeRosa and Mr. Morse. You signed a document warning of your constitutional rights, and you signed a document waiving all of that, isn't that right? (Handing to the witness)
 - A That's right.
 - Q All right. Now, look at Page 42.
 - A That's Page 42.
- Q All right. I'm going to call your attention, I want you to read down to where I have marked the "x" here. Begin with the question first Sergeant DeRosa asked you.
 - A Yes. "Warren Kimbro was still" -
 THE COURT: Read it to yourself.

 THE WITNESS: Yes.

- A Okay.
- Q Did you read it?
- A Yes.

MISS RORABACK: Again, your Honor, I have the same objection.

THE COURT: He just read it to himself. What are you objecting to?

MISS RORABACK: I*m sorry, I was anticipating the question.

THE COURT: All right.

BY MR. GARRY:

Q It's true, is it not, that at that time you repeated, you repeated to Sergeant DeRosa that, when he asked you the question, "Isn't it a fact that Lonnie was doing the driving?" and you pointed out to him that, "No, Warren was doing the driving," and you pointed --

A Yes. That was an error. I stated to him it was an error.

- Q I know. But you just told us under oath, sir, that on the 16th of August you had made an error, and you had called that to the attention of Sergeant DeRosa.
 - A Yes, sir.
 - Q And you were positive about that?
 - A Yes, sir. I'm positive about that.
 - Q All right. Then, four days later here in New Haven

you repeat the same identical thing that you had told Sergeant DeRosa, that it was, in fact, Warren Kimbro that drove the automobile. And when he questioned you you kept insisting, no, Warren was doing the driving. That's what you said, isn't that right?

A Yes, period. He did drive back. That's what Sergeant DeRosa asked me. At one point he asked me, who was doing the driving? I say, Warren Kimbro drove us back, and I say Warren Kimbro was driving the car, he was doing the driving.

- Q Mr. Sams, is it your testimony now that on this particular occasion you are talking about the drive back?
 - A Oh, yes, sir. Warren Kimbro drove back.
- Q No, I'm trying to find out from you whether you are now saying that this matter that I just called to your attention on the 21st of August, when your statement was taken and what you just read to yourself, are you saying that that refers to driving back from the scene?
- A Oh, I think that that statement more or less -- yes, it pertains to that.
 - Q You think it does?
- A I think Mr. DeRosa had gotten that mimeod, copied off, because he only took a short statement from me and he probably copied the same statement. And I told him, no, Kimbro was driving, because he wanted to know was Lonnie McLucas

driving at any time?

- Q Isn't it a fact, sir, that Sergeant DeRosa asked you this question: What you are saying to me is that "Rackley was put in the back seat, you were seated in the back seat, Lonnie was doing the driving?" And you said, "No, Warren was doing the driving."
 - A Yes, sir.
 - Q You did say that, didn't you?
 - A Oh, I remember that. Yes, I did.

- And the question was again asked you, "Warren was doing the driving?" And you answered, "Lonnie was sitting in the front"?
 - A Yes, sir.
- So that's another error on your part, isn't that
 right?

A Oh, I don't know about it being an error. I know
I rephrased it to Mr. DeRosa, and I testified at the Lonnie
McLucas trial that Warren was driving and if Mr. DeRosa don't
recorrect that, then you have to see Mr. DeRosa, right?

MR. GARRY: May I have that read back?

THE COURT: Read it.

(The court reporter complied.)

BY MR. GARRY:

- Q Isn't it a fact that all of these things that you were saying were being taken down?
 - A Yes, sir, I think they were.
- Q By question and answer, actual wording, isn't that correct?
 - A Yes, sir.
- Ω By the way, are you under medication at the present time?
- A Oh, I take some sleeping medicine to go to sleep 11:00 o'clock at night.
 - Q What else do you take?

- A That's about all; aside of my cough syrup.
- O What else?
- A That's all.
- Q What is the last time that you took Thorazine?

 MR. MARKLE: Now, I'm going to object, if the

 Court please.

THE COURT: Sustain the objection.

BY MR. GARRY:

- Q Are you taking Thorazine?
- A I don't know, Mr. Garry. I just go in the Medic Room and tell them, you know, describe to the doctor that I can't sleep, I'm suffering from some migraine headaches.

 And the doctor prescribes something for me, I don't go into asking him what he's giving me. And if he give me any drugs, and if it's too powerful I think I haveit for the record to the institution that I don't want any drugs. So the doctor just give me something to go to sleep. They don't work.
- Q Any doctor ever tell you he's giving you tranquillizers?

MR. MARKLE: I object.

THE COURT: Sustained.

BY MR. GARRY:

Q When is the last time you took medication before you sat on that witness stand?



- A I took some medication to go to sleep last night, about 11:00 o'clock, Mr. Garry.
 - Q And have you taken any medication today?
 - A No, sir, I don't take it but once at night.
- Q And you still have your propensity of violence, to do harm to people, have you not?

MR. MARKLE: I'm going to object to it, if the Court please.

THE COURT: Sustained.

BY MR. GARRY:

You resorted to violence in prison, have you not?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

BY MR. GARRY:

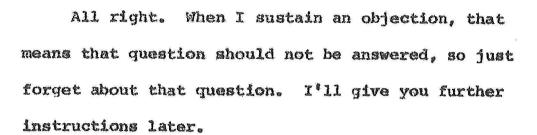
Q You've been reprimanded for striking another inmate, have you not?

MR. MARKLE: I'm going to object to this.

THE COURT: Sustained.

MR. MARKLE: If the Court please, can the jury be instructed that these questions are not to be considered as evidence?

THE COURT: Oh, I think the jury is intelligent enough to realize that. You know, just putting a question doesn't mean that that's a fact. You all understand that, I'm sure.



MR. GARRY: I'm going to have to have an argument to see if I can persuade your Honor that these are relevant questions, and may that be done outside the presence of the jury?

THE COURT: The jury is excused.

(The jury left the courtroom.)

MR. GARRY: If the Court please, the propensity of violence on the part of this witness, his conduct, his credibility, his disregard for the truth, his recklessness for the truth are all matters that go to his very character and his demeanor. And this should be presented to the jury so that they will see and be able to evaluate his testimony in the light of his own character and his own credibility, and it is important to show that not only that he has had past acts of violence against not only members of the Black Panther Party but from others, as represented by his history that your Honor is somewhat familiar with.

And also that it continued immediately after the events of May the 22nd, 1969, and they continue

right up to the present time, as of late, as of -and at least as of the 29th day of January, 1971,
where he was, he had laceration to the right hand
from striking another inmate.

That, we take that right out of Defendants' Exhibit for Identification --

THE COURT: Mr. Garry --

MR. GARRY: -- No. 3 or 6, I don't know which it is.

THE COURT: Mr. Garry.

MR. GARRY: Yes, your Honor.

somebody's criminal record to be introduced on an issue of credibility, our Supreme Court has said there must be a conviction and it must be for a crime — for a penalty in excess of one year.

Breach of the peace, or any other minor record not admissible in this State on the issue of credibility. You're talking about something that isn't even a charge in a court.

MR. GARRY: I'm talking --

THE COURT: That's the law in this State.

MR. GARRY: I'm talking about his "M.O.," his method of operation, his reputation, his conduct.

And it has nothing to do with whether he has been

actually convicted or not convicted. He was not convicted of any of the things that he testified to that he had done to Tanaka, and to the other Black Panther Party member that he stabbed.

THE COURT: I'll adhere to my ruling. If you care, take an exception. Go ahead.

MR. GARRY: I'll take an exception.

THE COURT: All right.

Call the jury.

(The jury entered the courtroom at 10:55 A.M.)

THE COURT: All right, Mr. Garry.

MR. GARRY: I take it I was not successful in getting your Honor to change his mind?

THE COURT: You weren't.

BY MR. GARRY:

- Q Have you discussed this case with Warren Kimbro?
- A Only what I read in the newspaper, Mr. Garry.
- Q And you followed his testimony throughout the McLucas trial?

A No. I make it my habit not to, you know, try and read exactly what Warren said, or what I said, you know, because I feel what Warren says -- or this is what he recalls, and what I said is what I recall.

- Q My question is: Have you read his newspaper accounts --
 - A Some of it.
 - Q -- what he said?
 - A Some of it, Mr. Garry.
 - Q How about in this trial?
 - A No, sir.
- Q You haven't read anything in the papers about this trial, is that right?
 - A Oh, just in the newspapers somewhere.
 - Q We are talking about newspapers, sir.

A Well, you asking me what did I talk -- I'm telling you I read something in the newspaper. As far as me talking to Warren about this trial, to some degree, about the individuals in the trial, yes.

Q Have you been following the newspaper accounts of Warren Kimbro's testimony in this trial?

A No, sir.

Q When did you last talk to Warren Kimbro about this case?

A Yesterday.

Q Where?

A On the tier. You know, in the jail, you have a galley.

THE COURT: Tier, T-1-e-r.

BY MR. GARRY:

Q Would you tell the Court and jury what names you have been known as?

MR. MARKLE: I object to that, if the Court please.

There is no relevance.

THE COURT: Well, I will let it go.

You may answer.

Overruled.

MR. MARKLE: May I have an exception?

THE COURT: Exception may be noted.

THE WITNESS: I have nicknames, like Crazy

George, Madman, Detroit George -- several names -
I had the name Dingee Swahoo, which was an African

name.

THE COURT: Dingee what?

THE WITNESS: Dingee Swahoo.

THE COURT: All right.

THE WITNESS: It's an African name, and I had the name that Chairman Bobby and Dave Hilliard gave me, which was Madman No. 1, which was in San Francisco. This is what we had, these are the names that we had, just like you have a nickname, Mr. Garry, you know people call you a nickname, basically.

BY MR. GARRY:

- Q What else?
- A They call you Mr. Garry, "Fat."
- Q What other names have you been known by?
- been called No. 1 Agent. I have been called Rats, Snitch -- a lot of times, you know, basically, it's -- Rats, Snitch, Agent, -- lots of times, you know, these is -- to me these names are just that people be misled by, because they don't know no other thing. Somebody push the rhetoric and they follow it. It means not that much to me.
 - Q You have also been accused, for many, many months

prior to your being arrested, as being a Pig, have you not?

A Yes.

MR. MARKLE: Object.

(Page 1896 follows; no omission.)

- Q And what other names have you been known by?
- A That was about all, Hr. Garry.
- Q What name were you using in Toronto, Canada when you were arrested?

A Oh, you mean --

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: You said "nicknames," you mean -MR. GARRY: I never did say "nicknames."

He said "nicknames." I said what names have you been known by.

THE COURT: Now, you have been given the nicknames.

MR. GARRY: That's right, but I still want to press my question.

THE COURT: Now you mean the aliases.

MR. GARRY: Yes.

THE COURT: All right, go ahead.

THE WITNESS: Robert --

MR. MARKIE: Exception, your Honor.

THE WITNESS: One of my alias names is Robert
Wardell Smith, when I went to Nova Scotia, and
another name was Charles Brown, the Reverend Charles
Brown, because I wore a minister's suit when I was a

fugitive. That was that.

BY MR. GARRY:

- Q Any other names you were known by?
- A That's about all, Mr. Garry, that I can possibly tell you.
 - Q How many people have you killed?

THE COURT: Mr. Garry, are you prepared to substantiate anything of that nature by a charge made against this man?

MR. GARRY: I am going to ask another question.
BY MR. GARRY:

Q Have you told Warren Kimbro that you killed persons on many occasions?

A No, sir.

MR. MARKLE: I object.

THE COURT: He answered it, "No. sir."

BY MR. GARRY:

Q Did you ever tell an attorney by the name of Wassau that you had killed a man?

MR. MARKIE: I am going to object, if the Court please.

I don't know who Nassau is, but I think it's improper at this stage.

THE COURT: I am going to sustain the objection.

MR. GARRY: I take an exception.



THE COURT: Exception may be noted.

BY MR. GARRY:

Q Have you told anybody at any time that you have killed more than one person?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

BY MR. GARRY:

Q You have been involved in, when you went to the reformatory school, magging a man, were you not?

THE COURT: Sustained.

MR. MARKLE: I object, if the Court please,

and I again --

THE COURT: Sustained.

MR. MARKLE: -- ask the Court to instruct the jury on that.

THE COURT: The jury will recall my instructions just a few moments ago.

BY MR. GARRY:

Q Do you recall telling Loretta Luckes that if you ever saw your mother, you were going to kill her?

MR. MARKLE: Objection.

THE COURT: Sustained.

MR. GARRY: Exception.

BY MR. GARRY:

Q You were constantly fighting and hitting people

right and left when you were at Wassaic in New York, were you not?

MR. MARKLE: I object, if the Court please.

THE COURT: Sustained.

Mr. Garry, I sustained the objection a moment ago when you referred to that school.

MR. GARRY: I would like to be heard on that.

THE COURT: The jury is excused.

(The jury was excused at 11:03 A.M.)



THE COURT: Yes, Mr. Garry.

MR. GARRY: If the Court please, lest the Court thinks I'm trying to follow the Court's order, I am following some of the questions permitted in the McLucas trial.

THE COURT: That's a different case, different entirely.

I rule on the questions in this case as they come up.

MR. GARRY: These are the same identical questions, your Honor.

THE COURT: I rule as the questions come up, Mr. Garry, in this case.

MR. GARRY: Does that mean I can't put these questions?

THE COURT: You put your questions, and I will rule on them.

I just ruled on that last question.

MR. GARRY: Now, the purpose inputting these questions in is to show his pattern of conduct, his method of operation, his propensity, his state of mind, his credibility, his reliability as a person. Those are the reasons that I want this jury to be able to see this witness.

THE COURT: All right, I will adhere to my

ruling. I will not permit the question to be answered.

MR. GARRY: I take an exception, your Honor.

THE COURT: Exception may be noted.

Call the jury.

MR. GARRY: Then I have to go through each one of these and ask these questions?

THE COURT: Try your case any way you care to,

Mr. Garry. You have your job, and I have mine.

Call the jury.

MR. GARRY: I take exception to your ruling, your Honor.

THE COURT: All right.

Just a minute, Sheriff.

MR. GARRY: He wants to get rid of these. (Indicating)

MR. ROSEN: Your Honor, I've finished with these.

THE COURT: You want to check it out, Mr. Markle?

MR. MARKLE: If he tells me he did it, it's

all right.

THE COURT: All right, Mr. Clerk, you put those yellow sheets with the Defendants' Exhibit 6.

THE CLERK: Yes, your Honor.

THE COURT: So they become a part of it, and

then you can return the originals to Mr. LaPage, or Captain LaPage.

Is there any reason for holding him here, -MISS RORABACK: No.

THE COURT: Mr. Garry or Miss Roraback?

MISS RORABACK: No, your Honor.

THE COURT: Captain LaPage can depart?

MR. MARKLE: As far as the State is concerned.

MISS RORABACK: Yes.

THE COURT: Mr. Garry?

(There was no response.)

THE COURT: The State Prison man, can he leave?

MR. GARRY: He can leave as far as I'm concerned.

THE COURT: All right, that's what I'm asking

you.

All right, whenever they are ready.

(The jury entered the courtroom at 11:05 A. M.)

BY MR. GARRY:

Q You didn't get along very well at Wassaic Prison, did you?

MR. MARKLE: Object, if the Court please.

It's not a prison.

THE COURT: Sustained.

BY MR. GARRY:

Q What kind of place was Wassaic?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

BY MR. GARRYS

Q You were constantly fighting there, were you not?

MR MARKLE: Objection.

THE COURT: Sustained.

MR. GARRY: I'm sorry, but I intended to take exceptions to the other rulings, your Honor.

THE COURT: You take exceptions whenever you care to.

MR. GARRY: I forgot.

BY MR. GARRY:

Q And you also, at the same institution, threatened the employees, did you not?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Sustained.

BY MR. GARRY

Q You were irritated several times and you used a couple chairs on people, did you not?

MR. MARKLE: Objection.

THE COURT: Sustained.

MR. GARRY: Exceptions to both of those previous ones, your Honor.

THE COURT: Exceptions may be noted.

 Ω And you also beat up patients at the institution, did you not?

MR. MARKLE: I object to this.

THE COURT: Sustained.

MR. GARRY: Exception, your Honor.

THE COURT: Mr. Garry, I am going to excuse the jury.

You make an offer of proof, I'll make the ruling that way. I don't think the jury should be hearing these questions when I believe they are improper.

I am going to excuse the jury.

MR. GARRY: That's why I asked --

THE COURT: If you care to make an offer of proof, all right.

I am going to excuse the jury.

(The jury was excused at 11:08 A. M.)

THE COURT: If you care to make an offer of proof, Mr. Garry, go ahead.

MR. GARRY: Yes, I will.

THE COURT: All right.

MR. GARRY: I refer to the previous testimony of this witness --

THE COURT: All right.

MR. GARRY: -- beginning with Page 1225 of the McLucas transcript, if the Court please.

"O" ..

THE COURT: I'm not interested in that, Mr.

Garry. I'm interested in your offer of proof in

this case, right now concerning this subject matter.

MR. GARRY: Well, the offer of proof is by his own answers, your Honor, and this is why I want to selectively read --

THE COURT: No, no, you don't understand me.

You want to inquire into a certain area?

MR. GARRY: Yes.

THE COURT: Make your offer concerning that,

and then I will rule on it, and then you are protected.

MR. GARRY: I see.

THE COURT: But I'm not going to do it "Question" and "Answer."

MR. GARRY: I see.

THE COURT: All right.

MR. GARRY: My offer of proof is that he has stated to at least one person, at least one person, Loretta Luckes, that if he ever saw --

THE COURT: I ruled on that specific question.

I take it, Mr. Garry, --

MR. GARRY: I don't quite understand your Honor.

THE COURT: I take it what you want to do is inquire into his stay at Wassaic, concerning various activities at Wassaic Hospital?

MR. GARRY: Yes.

THE COURT: I'm not going to permit that.

That's your offer?

MR. GARRY: Yes.

THE COURT: All right. So, I am ruling that I will not permit questions in that area.

MR. GARRY: And so that your Honor will know the reason that these are being offered, it goes to his own sanity, his own propensity of violence, his own conduct, and he has admitted that he has used these violent methods and conduct towards patients, towards employees, towards other men in the institution. He has admitted these.

THE COURT: I will adhere to my ruling.
All right.

MR. GARRY: No, it's not all right, but I will accept your Honor's ruling.

THE COURT: Have you completed with your offer of proof?

MR. GARRY: I will take an exception to your Honor's ruling.

THE COURT: All right, call the jury.

(The jury entered the courtroom at 11:10 A.M.)

THE COURT: All right, Mr. Garry.

BY MR. GARRY:

Q You were shot five times, were you not?

MR. MARKLE: I am going to object, if the

Court please.

THE COURT: Sustained.

MR. GARRY: That has a conviction, as I recall it, your Honor.

MR. MARKLE: Well, --

THE COURT: A conviction record is admissible in evidence, and if you offer it, I will overrule the objection, Mr. Garry.

MR. GARRY: Well, I am going to ask him first.
THE COURT: No.

The question is, if you want to put it, "Were you ever convicted of a charge of" so and so?

Q Were you ever convicted of the charge of breaking and entering in Detroit?

MR. MARKLE: I'm going --

THE WITNESS: I was convicted for attempted breaking and entering, yes.

BY MR. GARRY:

Q And as a result of that, you were shot, were you not?

MR. MARKLE: I am going to object --

THE COURT: Sustained.

MR. MARKLE: -- if the Court please.

MR. GARRY: I take exception, your Honor.

THE COURT: Exception may be noted.

Q How does alcohol affect you, Mr. Sams?

MR. MARKLE: I'm going to object, if the Court please.

There is no testimony -THE COURT: Sustained.

BY MR. GARRY:

- Q How does marijuana affect you?
- A I don't think it have no -- any different effect on me than anyone else who smoke it once in a while. You just get high.
- Q You forget what you are doing, youlose your recall when you have been smoking pot?
 - A It depends on how much you smoke.
- Q Well, at any time during the period of time that you testified to here, from May 16th or 17th, until the 22nd or 23rd, were you high on marijuana?
 - A Sometime, yes.
 - Q When were you high on marijuana?
- A I was high on marijuana after I came back from the shooting. I was high on marijuana -- Brother Landon brought a shoebox full of it around -- I think it was that Saturday -- with all the rest of the members there, and we smoked some.
- Q It's always Brother Landon who brought things, is that right?

- A He happened to bring it, that's the truth. I went out and got some and got beat for \$15.
 - Q Where was that?
 - A In New Haven.

MISS RORABACK: Excuse me, your Honor.

I didn*t want to interrupt Mr.Garry, but could the last couple of answers — the last three questions and answers be read? I missed something somewhere.

THE COURT: Read the last three.

(The last four questions by Mr. Garry of the witness, and the answers of the witness, were read by the court reporter.)

MISS RORABACK: Thank you.

BY MR. GARRY:

Q Who went with you to get the marijuana here in New Haven where you got beat for \$15?

A Oh, I think it was -- your Honor, do I have to answer these young ladies names to him?

THE COURT: Is it pertinent, who?

Was it one of the ladies or one of the men?

THE WITNESS: One -- two of the sisters.

THE COURT: Is it important?

MR. GARRY: I won't press it.

THE COURT: If you want to, I will tell him to

answer it. It's up to you.

BY MR. GARRY:

Q You have testified on several occasions who it was. Why are you so reticent today?

I just don't think that I should continue, you know, in this case, which you trying to use people as they are and paint them, that I should continue to use young ladies' names in this testifying case. You know, it's not my -- you know, reasoning that really I want to testify against Sister Ericka. As you noticed in all my testimony, I try to protect most of the sisters in the case anyway, because the only thing they was doing was the same thing I was doing, and that is following orders, but it seemed though, Mr. Garry, you want to pretend everybody had the own piece in the crime, and everybody was following orders, and that's just what I was doing, Sister Ericka was doing -- Chairman Bobby give the orders, and we follow them. The Central Committee gave the orders, we followed them, and everyone -- I just don't appreciate, you know, you trying to paint certain people to be doing certain things, because the man runs on our policies or we had policies, -- like they tell you to don't smoke weeds, and Chairman Bobby drinks "Cutty Sauce" (Sic) all the time and the members smoke weeds, and they tell the society they don't do these things, but the true members, they know different, and this is the reason I particularly don't care to continue,



you know, to, you know, be testifying on sisters and brothers in the Party, because the real responsibility lie on the leadership, and I'm a Party member, and that's why I am accepting to the truth, Mr. Garry.



Ω Just like you testified to the truth as to who was driving the automobile, --

MR. MARKLE: I'm going to object.

BY MR. GARRY:

Q -- is that right?

MR.MARKLE: We are getting argumentative.

THE COURT: Sustained.

BY MR. GARRY:

- Q You say Bobby Seale drinks "Cutty Sauce"?
- A Man, --

THE COURT: Cutty Sark?

THE WITNESS: He constantly --

MR. GARRY: He said "Cutty Sauce."

THE WITNESS: "Cutty Sauce," liquor, he drinks all the time. He was drinking when he came to the rally at Yale. Warren Kimbro tells the Chairman to put away the liquor, and you think he put it away? This man tell the members not to drink, and he drinks all the time, he does the same thing, and if you do it, he gives — he's on the stage at the rally hollering about members smoking weeds, and he's drinking "Cutty Sauce," the liquor in the bottle, and I don't think that's fair, Mr. Garry.

BY MR. GARRY:

Q He was drinking "Cutty Sauce"?



- A Because all the time he drinks like "Cutty Sauce," all the time.
 - Q When did you see him? When did you see him?
- A I see him all the time. Every time I seen him. There wasn't a time he wasn't drunk. Sometimes you have to hold him up on the stage.
 - Q When did you hold him up on the stage?
- A I hold him up on the stage at the "Free Huey Rally," when 10,000 people were there. He was drunk.
 - Q Where was this 10,000 people?
- A Right there in San Francisco, May lat rally, Mr. Garry.
 - Q What day?
- A May 1st, on the rally in San Francisco, in front of the courthouse at the "Free Huey Rally," he was drunk. He was drunk. He always drunk. He drink all the time, so I don't know, you know, care for me to try to make the Court and society think that the Black Panther Party is not committing these crimes, because they commit these crimes. The same rules they set, they break. This is the whole argument between Eldridge Cleaver and Bobby Seale. They break their own rules and regulations. They break them, you know, and you are here trying to paint people as the Black man is dead, I'm not denying it. This man gave the order to kill that man, and that's the simplest this is as plain being, like, as I can.



what you want to do is paint me as a monster, and every member dies in the Party. The Party put them in the paper and say theyare agents, and there ain't a member ever resign at the Party. That person just do not go out of the Party and nothing said about it. Every member who go out of the Black Panther Party, something is wrong of some kind, he's an "Uncle Tom," a sick nigger of some kind, an agent, and there ain't a member that can resign without being intimidated by the people in the Black community, you know, for lying, Mr. Garry.

You know the Party is lying. You're lying. I just -- I'm not going to be no martyr. I'm not going to be no martyr for the Party. I have never been a martyr. I just speaks my own mind. Bobby don't like it. When I first came. to San Francisco, he tells me, he says, "Who are you? What are you here for?" I said, "I am here to see Don Cox." He says, "My name is Chairman Bobby. You supposed to see me," and because I refused to see this man, he got the attitude he wants to move on, and he called me a "East Coast nigger." This man, hey, the Party is known -- you know, it's about time for you to stop going around here and playing on people. I'm stepping up, because it can't work with me, or any other member of the Black Panther Party. I happen to be one that survived and not to get killed in the Black Panther Party, and I have made up my mind I am going to expose the truth to

everybody, and if I have to, if I have to, I can prove the fact that you are on the Central Committee, you are part of the same Panther Party that goes around promulgating and using the Blacks and Whites, and I would do it, Mr. Garry, and this is a fact, and you are wrong.

Q Why don't you go ahead and do it?

A Well, the Black Panther Party -- and see that you are on the Central Committee. You know, I expect -- you sit there and tell these lies and you try to incriminate people.

You can't do it with me.

Q I'm on the Central Committee of the Black Panther Party?

A Yes, you are the lawyer of the Central Committee of the Black Panther Party. You make the decisions. You make just as many decisions as the other people in the Black Panther Party. You get up and you represent the Party as if you have been in there for twenty years, you don't know nothing. You know that's a fact, you do it all the time, and you did it on the David Frost Show. You got on the David Frost Show and said the police killed the Panthers. You know the Panthers killed some of the Panthers.

John Huggins -- what happened to John Huggins?
What happened to Brother John --

MISS RORABACK: If your Honor please, I object to this sort of --

THE WITNESS: You're asking me, and I'm giving it toyou.

THE COURT: Mr. Sams, --

You object?

MISS RORABACK: I object.

THE COURT: It's about time somebody did, or we would be here all day.

You object.

All right, Mr. Sams, there is no question pending.

Go ahead, Mr. Garry.

It's all very interesting, but is not pertinent to this case.



Q Mr. Sams, you have demonstrated how you act constantly, do you not?

A No.

MR. MARKLE: I am going to object to that because --

THE COURT: It's been answered already. I will let it stand.

BY MR. GARRY:

Q And your demeanor and your wild statements are consonant of your entire character, is that correct?

MR. MARKLE: I object to that, too.

THE COURT: Can't we get on with this case.

The jury sat there, I sat there; we all heard and observed everything.

MR. GARRY: I didn't cause it. All I did was ask a question about marijuana.

THE COURT: I didn't say that. I said the jury saw and heard everything, and they are the judges of the facts in this case, so let's get on with it.

BY MR. GARRY:

Q Would you say that your conduct during the period of time of May 17th to 18th, 19th, 20th, 21st and 22nd was the acts of a monster?

MR. MARKLE: I am going to object to that.

MR. GARRY: He's the one that raised it.

MR. MARKLE: I am going to object, if your Honor please. He asked the question. He replied. He didn't move to strike it. He kept talking and told his story. There was no objection.

THE COURT: I will sustain the objection.

BY MR. GARRY:

Q Mr. Sams, would you say that you are a normal human being?

MR. MARKLE: I am going to object.

THE COURT: Sustained.

BY MR. GARRY:

Q Would you say that you are a person who is mentally ill and sick?

MR. MARKLE: If your Honor please --

THE COURT: Sustained.

Q Have you ever told anybody --

THE COURT: Mr. Garry, if Mr. Sams was mentally ill or sick, he would not be testifying. The Court has ruled on his competence as a witness. I had a hearing and I had testimony brought in before me and I made a ruling. Stay away from that area.

MR. GARRY: I am not going into the area of his competency to testify.

THE COURT: It sounded that way to me.

MR. GARRY: A person can be sick and still be competent to testify. Your Honor knows that, too.

THE COURT: If that is so, then that question is improper.

MR. GARRY: I take exception to that.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q What evidence did you have that I was a member of the Central Committee of the Black Panther Party?

MR. MARKLE: I am going to object to it.

There is no relevance to it. He said lawyer for the Central Committee.

MR. GARRY: That's not what he said, and I stand on what he did say.

THE COURT: Sustained. The objection is sustained.

Go on to something else. You are not going off on tangents here, if I can help it.

BY MR. GARRY:

Q Was I a member of the Central Committee in May of 1969?

MR. MARKIE: I am going to object.

THE COURT: Sustained.

BY MR. GARRY:

Q You said that the fact that I was a member of the

Central Committee is on every Black Panther Party paper?

MR. MARKLE: I am going to object to that, if your Honor please.

THE COURT: Sustained.

MR. GARRY: He so testified, and I want to get

a paper and have him show it to me.

THE COURT: Take an exception.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q I believe you have already testified that the first time that you ever went to San Francisco or Oakland, the National office, you got into an argument with Mr. Seale?

MR. MARKLE: I am going to object. We covered this yesterday.

THE COURT: I think we did.

MR. GARRY: We did not. We did not.

THE COURT: Didn't you inquire, Mr. Garry --

MR. GARRY: I told your Honor at that time

that I was not through with this area.

THE COURT: Just a minute.

Didn't you inquire, Mr. Garry, about some feeling between he and Mr. Seale?

MR. GARRY: Yes, but I did not go into this business of the argument, and he just now brought it up



THE COURT: I will let it be answered.

MR. GARRY: The part that I went into yesterday, so it will be clear --

THE COURT: Put your question. I will overrule your objection.

MR. GARRY: May I have an exception?

THE COURT: Exception noted.

BY MR. GARRY:

Q The first time that you ever got into an argument with Mr. Seale was the first time you ever saw him, isn't that right?

A Yes, sir.

Q And he told you that you had no business being around the Black Panther Party, that you were a fool and you were a madman, isn't that what he said to you?

MR. MARKIE: I object.

THE COURT: No. I will overrule it.

A No. sir.

Q What did he say to you?

A Bobby Seales was highly disturbed at the fact because I dressed like an individual wearing my clothes and that I was under orders from an individual there and he wanted to know what I was doing in California, and I told him that Mr. Carmichael has told me and ordered me to see Mr. Don Cox, and those were my orders and I didn't care to talk to the

Chairman about it, and I followed those orders and Mr. Seales got mad. That's simply what happened, because I wouldn't recognize the fact that he was Chairman Bobby and I wouldn't go around saying Chairman Bobby this and Chairman Bobby that. I had orders; I followed them.

- Q Whose orders were they?
- A At that time, it was Mr. Stokely Carmichael's orders.
- Q You were his bodyguard, is that right?
- A Yes, sir.
- Q And you were his bodyguard when Stokely Carmichael and you were both in Oakland at the trial of Huey Newton --

THE COURT: I am going to object to this.

Q -- is that right?

MR. MARKLE: He admitted that he was his body-guard.

THE COURT: Sustained.

He was a bodyguard. I don't see where --BY MR. GARRY:

Q As his bodyguard, how many people did you beat up?

MR. MARKLE: I object.

THE COURT: Sustained.

MR. GARRY: Exception.

THE COURT: Exception.

Well, I think this is a good time to take our morning recess.

(The jury was excused at 11:26 A.M.)

THE COURT: Recess, Mr. Sheriff.

(The court recessed at 11:29 A.M.)

(After recess.)

THE COURT: All right, bring in the witness.

Call the jury, Sheriff.

(The jury entered the courtroom.)

THE COURT: Be seated, Mr. Sams.

All right, Mr. Garry.

(The witness resumed the stand.)

BY MR. GARRY:

Q Sir, my question was, were you ever high on marijuana or alcohol during the period of time of May 17th, 18th, 19th, 20th, 21, and 22?

MR. MARKLE: I'm going to object, if the Court please. He's already been asked that and answered.

THE COURT: It's been answered.

MR. MARKLE: That's not the question.

MR. GARRY: It has been answered?

THE COURT: He told you that he was high —
you asked that question about marijuana, he told
you he was high on marijuana when he returned from
the murder. And he told you that he was high on,
I think it was a Saturday, when Landon Williams
brought in a box of marijuana, I think.

BY MR. GARRY:

Q Why would you have to go and buy marijuana if Landon Williams brought in a box of marijuana?

MR. MARKLE: I'm going to object.

THE COURT: No. I'll let it be answered.

THE WITNESS: Well, at one time Landon told me, when I got there, to go get some weeds. That's what I did. I followed orders and went to get some marijuana, and when I came back he came up with some marijuana.

BY MR. GARRY:

- Q Did you ever go with Alex Rackley and get some weed?
 - A No, sir.
 - Q Never, at any time?
 - A No, I never did go anywhere with him, no.

MR. GARRY: May that be read?

THE COURT: Read it back.

(The court reporter complied.)

BY MR. GARRY:

Q Let's get back to the time that you said that you went there with Stokely Carmichael, and you reported to Donald Cox; do you recall that occasion?

MR. MARKLE: I'm going to object, if the Court please. I don't think that's his testimony.

THE COURT: I'm not sure whether that is, I
don't think he said it that way. I think he said -MR. GARRY: Well, let me restate it.



Q There was a time when you were the bodyguard of Mr. Carmichael, that you reported to Donald Cox?

THE COURT: Yes.

BY MR. GARRY:

- Q Is that right?
- A Yes, sir.
- Q And I believe you stated in your previous testimony, if I'm correct what I read, that you were under military tactics?
 - A Yes, sir.
- Q And what did you mean that you were under "military tactics"?

MR. MARKLE: Now, I'm going to -- are you finished, Mr. Garry?

MR. GARRY: Yes.

MR. MARKLE: I'm going to object, if your Honor please. This is no part of my direct. This is brought out on cross and we are going into collateral issues again.

THE COURT: I'll let this one be answered.

Go ahead. I'll overrule the objection.

MR. MARKLE: Might I have an exception?
THE COURT: Exception noted.

THE WITNESS: At the time when Huey P. Newton

themselves to be defensive, also. And I happen to be picked to be one of the military people there to be able, if it was necessary, to try and free Huey P. Newton. So I went to see Donald Cox because he happened to be the Field Marshal of the Central Committee there. And he knew all about military strategies, and Stokely was committed to the point to me to go there and study some military tactics with Donald Cox, and military tactics of the Party.

BY MR. GARRY:

Q Are you testifying under oath that Stokely Carmichael sent you to free Huey Newton militarily?

THE COURT: He didn't say that.

MR. MARKLE: I'm going to object.

THE COURT: He didn't say that. I'llsustain the objection.

BY MR. GARRY:

Q What did you mean, you said, "I was sent to free Huey, and report to Donald Cox"?

MR. MARKLE: I'm going to object.

THE COURT: He didn't say that. I'll sustain the objection.

BY MR. GARRY:

Q You have said that, though, have you not?

MR. MARKLE: I'm going to object, if the Court please. It's collateral, we are going off again, your Honor. I would object to it.

MR. GARRY: It shows the line of demarcation between Bobby Seale, and the reasons behind all of this, and I want to bring it out, your Honor.

I think I'm entitled to it.

THE COURT: I'm going to sustain the objection.
BY MR. GARRY:

Q Were you old that you didn't have to pay any attention to Bobby Seale, that he was just a fool, and he was a crazy person?

MR. MARKLE: I'm going to object to that, if the Court please.

THE COURT: I'll let that be answered.

THE WITNESS: No. sir.

BY MR. GARRY:

Q Were you told that Bobby Seale was "political" and he does not relate to the "military"?

MR.MARKLE: I'm going to object, if the Court please. I don't know when this is and I don't know what the relevancy is.

THE COURT: I don't know when it is either.

I'm going to let it be answered.

THE WITNESS: NO.

- Q You were not told that?
- A No, sir.
- Q Did you ever have a pointing gun at Loretta Luckes?

 MR. MARKLE: I'm going to object to that, if
 the Court please.

THE COURT: Overruled.

MR. MARKLE: Exception, your Honor.

THE WITNESS: No, sir, not that I recall. No, no, no, sir.

BY MR. GARRY:

Q You say "not that you recall." Does that mean that you might have been high on marijuana, and you don't recall?

A No, I just don't recall that taking place -- period -- Mr. Garry.

Q Do you remember slapping her around because she wasn't playing the kind of a record that you wanted her to play?

A Ro, sir.

MR. MARKLE: I'm going to object to that.

THE COURT: I'll let the answer stand.

BY MR. GARRY:

Q It never happened, is that right?

MR .MARKLE: I'm going to object to that, if the

Court please.

THE COURT: Overruled.

MR. MARKLE: Exception.

THE COURT: Exception noted.

BY MR. GARRY:

- Q It never happened?
- A No, sir.
- Q Did you ever tell her that you were going to slit her throat --

MR. MARKLE: Now, if the Court please, can we --

Q -- referring to Loretta Luckes?

MR. MARKLE: If he's referring to some particular time, is this during the period of time that we went into? Because, if it's not, I think --

THE COURT: Do you want him to specify the time?

MR. MARKLE: Yes, I do.

Q At any time?

THE COURT: "Any time."

A No, sir.

- Q You were running around with a .45 in your waist constantly during the entire time that you were there?
 - A No. sir.
 - Q You were running around with a .45 in your waist?
 - A Sometime I had the gun, yes.
 - Q Most of the time?
 - A No. sir.
- Q Even when you were running around in your shorts you had your piece stuck inside of your waistband of your shorts,



were you not, sir?

A No. sir.

Q Why were you running around with a gun in your possession?

A Oh, Mr. Landon Williams told us at all times we must keep security on Alex Rackley, and if the police came we was to go "down." That's the mandate of the Black Panther Party. If your house is "vamped" on, you are to defend it.

So I was only following orders, Mr. Garry.

Q Well, you're the only one that carried a gun, though, isn't that right?

A No. sir.

Q Who else had a gun?

A Oh, the gun belongs to Rory Hithe. He brought it from California.

Q I know, but you're the one that carried it around with you?

A No, sir. Not all the time.

MR. MARKLE: I -- all right.

Q What percentage of the time would you say, about eighty per cent of the time you had that gun in your waist?

A No, sir.

Q Did you have your gun in your waist on Saturday, the 17th?

A No. sir.

- Q Did you have your gun in that waist of yours on Sunday, the 18th?
 - A After the interrogation, yes.
 - Q How about during the interrogation?
 - A No. sir.
- Q You didn't have a gun in your waist while you were beating and stomping --

MR. MARKLE: Now, I'm going to object.

Q -- Rackley --

MR. MARKLE: Object to the characterization.

THE COURT: Mr. Garry, he specifically denied stomping him.

MR. GARRY: He may deny it, but his previous statement says he did it.

MR. MARKLE: No, your Honor.

THE COURT: The statement's read to the jury.

The jury can make up their minds on that issue.

- Q So that your testimony is that you were carrying the gun with you in case the police "vamped" on the premises, that you were going to go down fighting, is that your testimony?
 - A That was my orders at the time, yes, sir.
 - Q All by yourself?
 - A No, sir, other members was in the house.
 - Q But no one else had any weapon outside the one you





carried?

- A Yes, sir. There was a 30 -- odd -- 6 in the house.
- Q Who did that belong to?
- A I don't know exactly who it belongs to, but I know it was in the house.
 - Q Where was that?
 - A At one time a member of the Party had it.
- Q You had it hid under your mattress, did you not, so that the other members of the Party would not get that gun?
 - A No, sir, it's not true.
- Q It's not? Where were you living in those three or four days that you were there?
 - A Oh, I was living upstairs in one of the bedrooms.
 - Q Beg pardon?
 - A I was living upstairs in one of the bedrooms.
 - Q I see. Did you know a Valarie Bowman in San Francisco?
 - A Yes, sir.

MR. MARKLE: I'm going to object to that, if the Court please.

THE COURT: I'll let the answer stand. He said, "Yes."

THE WITNESS: Yes, sir.

BY MR. GARRY:

Q Did you ever tell her that you'd thrown a brother off the roof and broken his back?



MR. MARKLE: I object.

THE COURT: Sustained.

MR. GARRY: I claim it, your Honor.

THE COURT: Take an exception, Mr. Garry.

MR. GARRY: I do take an exception.

BY MR. GARRY:

Q Do you know a police officer by the name of a "Two Gun Pete"?

A No, sir.

MR. MARKLE: Objected to, your Honor. I'm going to object to this anyway and ask it be stricken.

THE COURT: I'll let the answer stand.

BY MR. GARRY:

Q Did you ever tell anybody that you had killed a police officer by the name of Two Gun Pete?

MR. MARKLE: I object to that.

THE COURT: Sustained.

MR. GARRY: Take an exception.

THE COURT: Exception may be noted.

- Q By the way, let's talk about the 19th of May, 1969.
 You did not go to hear Mr. Seale speak, did you?
 - A No. sir.
 - Q Is that because you were under "house arrest"?
- A Oh, no, sir. I was under what you call -- to some degree, yes.
- Q You were under arrest and you were not permitted to leave the premises, is that right?
 - A Yes, sir.
 - Q And who placed you under house arrest?
 - A Mr. Landon Williams.
 - Q When did he do that?
 - A Oh, I think it was late that evening, yes.

Q And he placed you under house arrest because of your mistreatment and your brutality towards Alex Rackley, isn't that right, sir?

A No. sir.

Q Did he tell you, didn't he bawl you out and reprimend you when he saw the condition of Alex Rackley?

A He put up an argument about the issue, yes.

MR. GARRY: May I have that answer read back, your Honor?

THE COURT: Read it.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

Q He yelled at you about the condition of Alex Rackley and what you caused to happen, isn't that right?

MR. MARKLE: Well, now, if the Court please, this is out of context. It's not what he's saying.

MR. GARRY: It's cross-examination.

THE COURT: Do you understand the question?

THE WITNESS: Would you repeat?

THE COURT: Read it.

(The court reporter complied.)

- A No, sir.
- Q What did he tell you?
- A He asked me, who interrogated Rackley, and who told



me to interrogate him? And I told him it was his orders.

And I left downstairs, and he came down about two or three minutes later and he told me, "We was just kidding. We didn't want him to know that we was giving the orders."

MR. GARRY: I'm coming back to this, your

Honor. I've not fully covered it at this poin t.

BY MR. GARRY:

Q Sir, getting back again to the 19th of May, while everybody went to hear Mr. Seale, you were in the house with one other member of the Party, or one other member of the group, is that right?

A At that time I think it was around three or four people in the house.

Q Who were there?

A I think a person by the name of Don, and I think Peggy Hudgins was there, I was there, and I think Loretta "McLucas" was there.

- Q And who was there?
- A I think Loretta, Loretta "McLucas."
- Q Who is Loretta "McLucas"?
- A I think that's her name.
- Q Who is Loretta McLucas?

A Loretta "McLucas," I think is a young lady who testified in this case. McLucas -- I don't know her last name properly. I think that's the way you pronounce it.

- Q You're talking about Loretta Luckes?
- A Yes, McLucas or Luckes.
- Q She was there, too?
- A Yes, I think so.

- Q There was a time when everybody came back, isn't that right?
 - A Yes, sir.
- Q Where were you when people started coming back after the speech of Mr. Seale?
- A Oh, I was somewhere around there. I don't know definitely where I were. I could have been anywhere in the house.
 - Q Were you downstairs, upstairs, in the basement?
- A Oh, I think I was, I think I was in the kitchen, as a matter of fact. I don't know for sure.
- Q What timewas it when the first group returned after hearing Mr. Seale?
- A Oh, I didn't keep up with that time, that estimate, Mr. Garry.
- Q What was the largest amount of persons who came back after hearing Mr. Seale?
 - A Yes, there was some people there.
 - Q I said, what was the largest number of people?
- about six or seven or eight. A lot of people came in and I explained to them that they was to go back out and find the little kid that was called in missing; that the message that I sent to Chairman Bobby, about this little girl that was missing. And that group came out and another group came in.

- Q What was the largest group you saw assembled in that bouse?
- A I don't know, Mr. Garry. Because I was going up and down the stairs, you know, I couldn't specifically say.
 - Q Was it over fifty at one time?
 - A I don't exactly rate that much.
- Q Exaggerate whatever you want to, but see if you can give me an approximate figure of people that were there.
- A I can't do that because I don't go around counting people, you know. I don't know how many people are in here.
 - Q I didn't ask you how many people were in here.
- A Well, I'm trying to explain to you, Mr. Garry, is that I didn't go around counting people.
- Q But you have some idea, you've been able to tell us who the different people are in each incident, you seem to remember that; can you give us some idea, the number of people, the largest number of people who were in that living reem in that house after Bobby Seale spoke?

MR. MARKLE: I object. He said he could not do it.

THE COURT: Well, he's asking him to estimate.

Can you give any kind of an estimate?

THE WITNESS: It could have been around about,

there was a group of people in the living room, a

group of people in the kitchen. It could have been



around ten, twelve people.

- Q And these people were not Party people, were they, sir?
- A I don't know, you know, some of them said they were in the Party. Some of them said they weren't. I don't know, you know -- I don't know who the people were, you know, some --
 - O They weren't people that you knew?
 - A No.
- Q You had not seen them up to the 19th of May, had you?
 - A Some of them I had seen, yes.
- Q But some of them you sent out to go on a search battalion?
 - A Yes.
 - Q How many people did you send out for searching?
 - A A group of people.
 - Q I didn't hear you?
 - A A group of people.
 - Q Well, when you say a "group," is that more than one?
 - A Yes.
 - Q More than ten?
 - A Well, I wouldn't necessarily say more than ten.

- Q I didn't get that answer?
- A I wouldn't necessarily say more than ten.
- Q How many would you say?
- A Just approximately around ten; around eight, nine people.
- Q And did you send another group out after that, after the first group?
 - A Yes.
- Q How many people did you send out, approximately, altogether, to do the searching after the speech of Mr. Seale was completed, the people that returned to the premises?
- A I was talking to one group to go out, and Mr. McLucas was talking to another group of people to go out. And that's the way that happened, Mr. Garry.
 - Q You're talking about Loretta Luckes?

 THE COURT: No, "Mr."

- 0 Mr. ?
- A Yes.
- O Lonnie McLucas?
- A Yes. He went out with them. He went out with the last group.
 - Q What time was the last group that went out?
 - A Around about 11:30.
 - Q And after 11:30, did any person remain in the

premises?

A Peggy Hudgins, Loretta "McLucas," I -- I, Loretta "McLucas," Alex Rackley, and I think that was about all, except the babies that was in there.

- Q How many babies were there?
- A I think Peggy had her kids there.
- Q Beg pardon?
- A I think Peggy had her kids there.
- Q How many kids was that?
- A I think about two kids.
- Q How many were there altogether?
- A Ericka had a baby.
- O That's three?

THE COURT: Are you talking about the premises now?

MR. GARRY: Yes.

THE WITNESS: I don't know if Ericka's baby was there or not.

MR. GARRY: Your Honor, so that the question would be clear, that, this is after the speech.

THE COURT: Yes, I understand that, but I think he misunderstood your question.

I think he was asking how many kids were around.
THE WITNESS: Yes.

THE COURT: What he wants to know, how many kids

were there?

THE WITNESS: Well, I knew Peggy's two children were there, I think.

BY MR. GARRY:

- Q Anyone else?
 - A Not that I know.

MR. GARRY: May that be read, your Honor?
THE COURT: Read it.

(The answer given by the witness was read by the court reporter.)

MR. GARRY: No, the people that werethere.

(The court reporter commenced reading with,

"Peggy Hudgins, Loretta "McLucas," I -- I, Loretta

"McLucas"...")

- Q Is it your testimony after the second batch went out, which was approximately, you stated, around 11:30 or so, that no other persons from the community came into the premises?
- A Oh, no. People was coming in and out. It's possible that some more people was coming in because some more people did come in after that, and that was Chairman Bobby and another group of people with him.
- Q Isn't it a fact that people were coming in and out of that place all night long?
 - A Yes.

- Q And over a period of from after the speech of Mr. Seale until such time as the wee hours of the morning, at least a hundred people went in and out of that premises?
 - A I don't know. You know more than I know, Mr. Garry.
 - Q What time did you go to sleep?
 - A About 4:00 o'clock that morning.
 - Q 4:00 o'clock that morning?
 - A Right.
 - Q Where did you sleep?
 - A Upstairs.
 - Q Where upstairs?
 - A In one of the bedrooms.
 - Q How many bedrooms are there upstairs?
 - A Three.
 - Q Three, Which bedroom did you sleep in?
- A Oh, I slept in one of Warren Kimbro's kid's bedroom at one time, and I slept in Warren's room at one time.
- Q I'm talking about now the morning of the 20th, you said you went to bed at 4:00 o'clock?
 - A Right, around 3:00 or 4:00, yes, around that time.
 - Q Now, which is it, now, 3:00 or 4:00?
 - A Yes, around that time.
 - Q 3:00 or 4:00 o'clock?
 - A Yes.
 - Q Is that right?



- A Yes.
- Q And you went to bed in one of the rooms of Warren's children's beds, is that right?
 - A Yes.
 - Q What time did you get up?
 - A Around 5:00.
 - Q You only slept for one hour?
 - A You don't even sleep that much sometimes.
 - Q My question was, did you only sleep one hour?
 - A I guess it was only one hour, yes.
 - Ω Did anybody awaken you?
 - A I don't understand you.
 - Q Did anyone awaken you?
 - A No. I waken myself.
- Q You slept an hour, and you wakened yourself, is that right?
 - A Yes.
 - Q How were you dressed when youwent to sleep?
 - A I had my clothes on.
 - Q What clothes did you have on?
 - A I don't know specifically what clothes I had on then.
- Q You don't remember what you wore on that day, is that right?
 - A No.
 - Q Was anybody else in the room with you where youslept?



A Maybe, I don't know for sure.



BY MR. GARRY:

Q So you don't know for sure or do you have an idea whether you were alone or not?

A No -- I mean people come in the room and go to sleep right next to you. There could have been someone in the room with me.

Q So somebody could have been sleeping next to you but you don't even know about it, is that right?

A Yes, it's possible that someone could have gotten in bed with me and I don't recall that they was in the bed.

Q Had you gotten high that night?

A No, I wasn't exactly what you call high. I smoked some reefers.

- Q You smoked some reefers?
- A Yes.
- Q What is a "reefer"?
- A That's marijuana.
- Q How many reefers did you smoke?
- A About one or two.
- Q When did you start smoking your first reefer?
- A Early that day.
- Q When you say, "early that day," are you talking about May the 19th?
 - A Yes.
 - Q What time would that be, "early in the day"? After

the speech of Mr. Seale or before it?

- A Before.
- Q And when you say, "Before," it would be what time before?
 - A I don't know what time it was, Mr. Garry.
- Q And is that because you had so many reefers you did not know the context of time?
 - A No, sir.
 - Q Who else smoked the reefers with you?
- A Landon Williams, Lonnie. Everybody in the house was smoking reefers.
 - Q I beg your pardon?
 - A Everybody in the house was smoking reefers.
 - Q Everybody in the house was smoking reefers.

You know, we are talking about Monday the 19th, sir.

The testimony you have just given me was that Landon Williams was smoking a reefer with you on Monday, the 19th of May, 1969; is that what you want this jury to believe?

A I didn't understand you, what you saying.

MR. GARKY: May I have my question read.

THE COURT: It may be read back.

(The last question by Mr. Garry was read by the court reporter.)

THE WITNESS: No, would you go back and fill in.
Could you have him go back further?

THE COURT: You mean the question and answer read before that?

THE WITNESS: Yes.

THE COURT: How about this question here?

THE WITNESS: No.

THE COURT: What do you mean, "No"?

THE WITNESS: I want to know what Mr. Garry referring to.

Would I like to have the jury believe that Landon Williams was smoking some reefers with me on the 19th? My answer to that would be yes.

But I want to know what he stated before then.

THE COURT: Read back the last two questions and answers before the one you already read, Mr. Reporter.

(The court reporter complied.)

THE WITNESS: My answer was yes.

BY MR. GARRY:

Q When did you see Landon Williams on Monday the 19, 1969, the first time?

A That was just before he went to pick up Chairman Bobby or go to New York to pick him up. He went and spoke to Chairman Bobby early that day.

O What time was that?

A I don't know, Mr. Garry.

Q As a matter of fact, Mr. Landon Williams was not there on Monday, the 19th, at all, is that a fact?

MR. MARKLE: I object. That's not what he just said.

THE COURT: I will overrule the objection.

- A No, sir, that's not true.
- Q What time did you see Landon Williams on Monday the 19th?

A I seen Landon Williams about 6:00 that morning,
7:00 that morning, around 9:00, I believe. I seen Landon
Williams -- it's pretty late when I last seen him. The last
time I seen him, he was going to pick up Chairman Bobby.

- Q What time was that?
- A Around 7:00, 8:00, 9:00.
- Q In the morning?
- A Yes, sir.
- Q Is that when he was smoking a reefer with you, at 6:00 or 7:00 o'clock in the morning?
 - A Smoking reefers all the times at night, yes, sir.
- Q That's your testimony, that he was smoking a reefer with you at 7:00 o'clock in the morning?
 - A Yes, sir.
- Q Who else smoked it with you at 7:00 o'clock in the morning?
 - A The rest of the members in the house at that time.

- Q Who was there?
- A Rory Hithe, Landon, I, Warren Kimbro. That was about it that I can remember, besides the sisters and brothers that were smoking.
- Q I want you to name who they were who was there smoking reefers with you at 7:00 o'clock in the morning?
- A Peggy was there, Jeannie was there, Rosemary Smith was there, Maude Francis was there.
 - Q Anyone else?
 - A Rory Hithe was there.
 - Q Anyone else?
 - A I was there.
 - Q Anyone else?
 - A And some other people. I don't know their names.
- Q And they were all smoking reefers with you at 7:00 o'clock in the morning, is that your testimony?
 - A Yes, sir, we was smoking reefers.
- Q And did you continue smoking reefers for the rest of the day?
 - A Did I continue?
- Q Yes, you. Did you continue smoking reefers the rest of that day, Monday, the 19th, 1969, May, beginning at 7:00 o'clock in the morning?
 - A I smoked a reefer again later that evening.
 - Q How many reefers did you smoke on Monday, the 19th?

- A About two.
- Q Why did you stop at two?

A Well, with Chairman Bobby coming into town, you don't want to get too plastered, you have to stay awake. When Bobby come, you got to run around a lot. Can't stay too high, where you can't function. Members is required to get high, but when they feel they can't function, they're not to get high, so some members smoked twelve, thirteen joints and still functioned, you know.

Q How many joints can you smoke and still function?

MR. MARKLE: I am going to object. There is
no relevance to this.

THE COURT: I will allow it.

- A Smoked, at one time, four joints and was functioning.
- Q You were able to --

MISS RORABACK: Could that be read back?
THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

- Q There came a time on Monday, the 19th of May, 1969, either because you were drinking wine or smoking reefers or any other form of drugs that you were not able to function?
 - A No, sir.
 - Q Sir, when is the next reefer that you smoked on the

19th after 7:00 o'clock in the morning or 6:00 o'clock in the morning?

- A Be around that evening, sometime.
- Q What time was that?
- A Around about 2:00 or 3:00 or 4:00, sometime around in the evening.
- Q 2:00 or 3:00 o'clock in the morning or 2:00 or 3:00 o'clock in the afternoon?
 - A In the afternoon.
- Q Sir, while everybody was gone to hear Mr. Seale speak at Yale, weren't you, in fact, smoking one reefer after another because you were all by yourself there with two or three of the sisters?
 - A No, sir.
 - Q You're positive about that?
 - A Yes, sir.
- Q Or is it possible that you had smoked so many reefers that you don't remember?
 - A No, sir.
 - Q How were you dressed on that particular occasion?
- A Had on green pants and green shirt and a doublebreasted leather coat, I believe.
- Q When was it that you disciplined one of the sisters for not braiding your hair?
 - A I don't recall that, Mr. Garry.

- Q Was it on Monday?
- A I don't recall that happening at all.
- Q You don't recall ever disciplining a sister for not braiding your hair?

MR. MARKLE: I object. He has gone over it.

THE COURT: It's been answered.

Sustain the objection.

BY MR. GARRY:

Q Did you ever have a sister braiding your hair?

MR. MARKLE: I object.

MR. GARRY: It's a different question.

THE WITNESS: Answer that, your Honor?

THE COURT: Yes.

- A Yes, sir.
- Q Who did that for you?
- A I think it was Loretta McLucas braided my hair.
- Q When you talk about Loretta McLucas, you are talking about Loretta Luckes, is that right?
 - A Yes, sir. Yes, sir.
 - Q You don't mean McLucas, do you?

THE COURT: I think he explained that he wasn't sure what her name was, it sounded something like that. But, I think, for the record, we can all agree that Loretta is Loretta Luckes.

Everyone agree?

MR. MARKLE: Yes, sir.

- Q Sir, when did you have Loretta Luckes braid your hair?
- A I don't know when it was, Mr. Garry. All I know was I had my hair braided at one time.
 - Q That was Monday, was it not, while everybody had

gone to hear Mr. Seale speak at Battell Chapel in Yale?

- A No, sir, not that I remember.
- O You don't remember?
- A No, sir, not that I recall.
- Q It could be that day?
- A It's possible, but I don't remember that.
- Q Did you threaten to discipline her if she didn't?
- A No, sir.
- Q Is this the same braiding of your hair that you beat Rackley in New York for? Is this the same type of hair braiding that you beat him up and had him running around the block three times?
 - A Yes, sir.
- Q It's true, is it not, that when you were told to go to Connecticut, come to New Haven here, you did not suspect Mr. Rackley of being an informer?
 - A No, sir, I didn't expect that, no, sir, that's true.
 - Q You did not suspect him of being an informer?
 - A No, sir.
- Q And you do not believe, to this date, that Mr. Rackley was ever a pig, is that right?
 - A Yes, sir, that's right.
- Q By the way, you told us yesterday or the day before, during the time that you testified here, that you were shown an indictment that had Alex McKeever on it. Remember that?





MR. MARKLE: I believe he described it as an indictment slip, your Honor.

BY MR. GARRY:

Q Recall that?

THE COURT: I think the word "slip" was used.

MR. GARRY: Well, I am not going to quibble

THE COURT: Some paper pertaining to it.
All right.

- A Yes, sir.
- Q And when was that shown to you?

with what the word is.

- A That was shown to me when Landon came back and we went down to the basement.
 - Q When was that?
 - A That was right after his interrogation.
- Q Was the name Alex McKeever ever mentioned to you before that?
 - A No, sir.
- Q Did you ever ask Alex Rackley if his name was also Alex McKeever?
- A No. I probably did, I don't know for sure, I don't know.
 - Q Didn't you think that was important?
- A Now that I recall we asked him that -- I asked him that. He said no, that wasn't his name. He said Alex Withro



(phonetic) McKeever. He said that wasn't his name.

Q When did you ask him that?

A I think it was after hearing the tape recorder upstairs questioning him about it.

MR. GARRY: Can I hear that answer back?

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

- Q Did you have any basis to believe then that Alex Rackley and Alex McKeever were one in the same?
 - A No. sir.
 - Q Did you tell that to Mr. Landon Williams?
 - A Yes, sir.
 - Q When did you tell him that?
 - A I told him that right downstairs.
- Q When you say, "downstairs," this was after he bawled you out, isn't that right, upstairs in front of Mr. Rackley?
 - A Yes, sir.
- Q And he told you that you were acting like a monster and a beast?
 - A No. sir.
 - Q What did he say to you?
- A He asked me specifically who interrogated Rackley and who gave the order, and I told him he gave the order.

Q Now, up to this time, Mr. Landon Williams had never heard this tape, is that right?

A I don't understand what you're saying, Mr. Garry.
Repeat it.

Q Up until the time that he bawled you out, when he saw for the first time Mr. Rackley upstairs, up to that time he had never -- up to that time he had not heard the tape, the recording that you had made?

- A Yes, sir.
- Q That's correct?
- A Yes, sir.
- Q And so, when you went downstairs, you took Mr.

 Landon Williams downstairs to convince him that you really
 had a pig upstairs and you tried to convince him by showing
 the tape, isn't that correct?
 - A No, sir.
- Q Well, isn't it a fact -- isn't it a fact that when you were downstairs, while he was bawling you out, you said that Alex Rackley had lied to you three thousand motherfucking times?
- A I told him he had lied sometimes but I don't know about that three thousand.
- Q Do you deny saying to Mr. Landon Williams when he was downstairs, when he was bawling you out, that Alex Rackley had lied to you three thousand motherfucking times?

MR. MARKLE: I am going to object.

First of all, his testimony is not as it's put in that question. He stated, when he was upstairs with Mr. Rackley, he was reprimanded, he left the room, went downstairs, went down to Landon Williams, smiled at him, talked with him, and then went and listened to the tape and he went and discussed it.

THE COURT: I am sure the jury is aware of what the testimony of the witness was, and if counsel wants to raise a question in some other fashion, the jury is aware of that, too.

I will overrule the objection.

MR. MARKLE: May I have an exception?

I don't think that's the question.

THE COURT: Exception.

BY MR. GARRY:

O Sir, I am going to call to your attention two things, one is a statement that you made, and the other your testimony in the McLucas trial. The statement that I am going to call your attention to is dated August 16, 1969.

We have already identified this area in an earlier time today.

(Indicating)

A Yes, sir.

You did tell him -- you did tell Mr. Landon Williams, while you were downstairs, when he was -- after you had been -- after he had been upstairs for the first time, you did tell him, down in the basement, that Alex Rackley had lied three thousand motherfucking times, isn't that right?

MR.MARKLE: I am going to object, if the Court please, and I would like what was shown to him to be identified so we can go back to it later.

THE COURT: What page are you reading from, Mr. Garry?

MR. GARRY: I am reading from Page 5 of the statement that I heretofore referred to, and now I am going to show him Page 1291 of his testimony in the McLucas trial.

BY MR. GARRY:

Q Read the question and answer, two questions and two answers. (Indicating)



- A That don't say "motherfucker" there, does it?
- Q What does that say?
- A I say three thousand -- "He lied three thousand fucking times."
- Q And your original statement said three thousand motherfucking times, isn't that right?

MR. MARKLE: I am going to object to that, and I ask he be allowed to read his statement, your Honor, and that question --

MR. GARRY: I don't mind him reading it.
THE COURT: Take it up on redirect.

BY MR. GARRY:

Q So you went out of your way to tell Landon Williams that Alex Rackley had lied 3000 times?

MR. MARKLE: I am going to object to that, if the Court please.

There is no evidence of that at all.

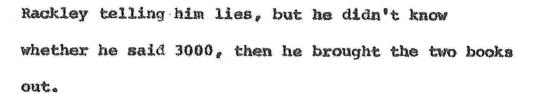
THE COURT: What is the grounds?

MR. MARKLE: I think it's misstating what the witness stated, your Honor.

THE COURT: You have redirect. You know the page numbers. Take it up with him.

MR. MARKLE: All right.

THE COURT: I do recall that the witness had said he thought he had -- he said something about



If you think the books don't say what you think they say, well, take it up on redirect.

BY MR. GARRY:

Q Just exactly what was it that Alex Rackley lied 3000 times?

A Alex Rackley, during the time of the interrogation, he had spoke about many sisters and brothers in the Party in New York as being informers and agents and being talking with the police, and Brother Landon had already told me these people was confirmed by the Central Staff, and as faras he was concerned about — the Field Marshal had been there, they was okay — so Rackley began to say he seen all these people talking to the police, and the phone was tapped, so I indicated to Landon, in a hypothetical manner, that Rackley had lied over three some thousand — I tell him he just constantly lied, as far as the statistics showed, through the interrogation.

Q And, as a matter of fact, Landon Williams did not know about any of the contents of the tape when you told him that Alex Rackley had lied 3000 fucking times, isn't that right?

A No, sir, that's not right.



- Q He had already heard the tape?
- A He was hearing the tapes then.
- Ω And it's only in the tape that any names are mentioned, isn't that a fact?
 - A Yes, sir.
- Q So that Mr. Landon Williams did not know of any other names, did he?
 - A Some people had told him about the names, yes, sir.
 - Q What people had told him, in your presence?
- A Yes. It was -- he was informed from the members that some of these people named could be shaky -- yes, in my presence.
- Q As a matter of fact, Mr. Williams came in for the first time and saw Alex Rackley in the condition, being tied up, Sunday night, isn't that right?
 - A No. sir.
- Q It was after theaffair at Hartford for Reverend

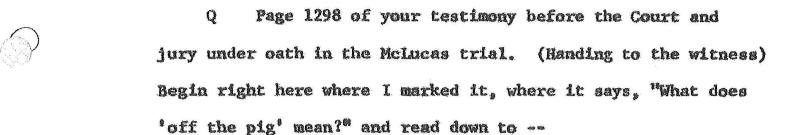
 Adam Clayton Powell that Landon Williams came to New Haven, isn't
 that a fact?
 - A No. sir.
 - Q When did he come here?
 - A He came here to New Haven -- he came back to New Haven that morning, after Rackley was interrogated. When we left and went to Hartford, Landon Williams and Rory Hithe stayed in the house to watch Alex Rackley, and I, Ericka



Huggins, and Lonnie McLucas all went to the Adam Clayton Powell thing.

- Q When is the first time you ever made this observation?
 - A I said that before in my transcript.
- Q Just like you said the other things in your transscript?
 - A Yes, sir.
- Q It's your testimony now that Landon Williams and Rory Hithe was taking care of Alex Rackley while you and the others went to Hartford?
 - A Yes, sir.
 - Q That's your testimony?
 - A Yes, sir.
- Q When was it that he bawled you out in front of Alex Rackley?
- A Oh, that was just late afternoon, after the interrogation.
 - Q After the interrogation?
 - A Yes.
 - Q Are you sure about that?
 - A Yes, sir.
- Q As a matter of fact, Landon Williams and Rory Hithe was not there to take care of Alex Rackley, you left someone else in charge upstairs, isn't that a fact?

- A No, sir.
- Q Isn't the word "off the pig" only a slang expression?
- A No, sir.
- Q Have you ever told anyone that the word "off the pig" is only a slang expression?
 - A No, sir, not that I now recall.



A No, no, no. Weit a minute. Wait a minute -
THE WITNESS: Your Honor, could you see this?

This man got this slang expression up on the ques-

MR. GARRY: I don't think he has any business to get involved.

THE WITNESS: Well, you know --

tion. You want to read this, or what?

THE COURT: Relax. Mr. Markle is your lawyer, he'll take care of it, Mr. Sams.

BY MR. GARRY:

- Q Read that to yourself, Mr. Witness.
- A That's right.
- Q You said, "off the pig," when Rory Hithe used it, was only a slang expression, isn't that right?

MR. MARKLE: I'm going to object, if the Court please, because what he's trying to explain is obviously in terms of what they were talking about in context of that page at that time.

MR. GARRY: I don't think I need any help from him.

THE COURT: Wait a minute, wait a minute. He

made an objection. Take it easy.

You take it up on redirect examination.

You can read the whole page if you want to.

MR. MARKLE: All right, 1298.

BY MR. GARRY:

- Q Isn't it a fact that you said that the time that Mr. Rory used the word "off the pig," it was only a slang expression?
 - A No, sir, I didn't say that.
 - Q You didnot say that?
 - A No. sir.
- Q You didn't say the following: "Q. What does 'off the 'pig' mean? A. Oh, just what the Party say. Off him. Do away with him. Kill him."

A Right.

MR. MARKLE: I'm going to object, if the Court please.

Q "That's what it means?" "A. Yes, off him means kill him."

THE COURT: Wait a minute, wait a minute, do you have an objection?

MR. MARKLE: Yes, I don't think you can take half a page like that.

THE COURT: You can take the other half, if you like.

MR. MARKLE: All right. I'm going to object.

THE COURT: All right, go shead.

MR. GARRY: I don't mind reading whatever counsel wants me to read.

THE COURT: Read what you want to read.

There's no objection to reading it. Go ahead and read it.

MR. MARKLE: I do have an objection to reading it, your Honor. He's already testified about it but -THE COURT: Well, that's different. Do you

object?

MR. MARKLE: Yes.

THE COURT: Then he's reading from a document that's not in evidence, and I'll sustain the objection.

BY MR. GARRY:

Q Well, isn't it a fact, sir, isn't it a fact that you told, under oath, that the word "off the pig" as used by Rory Hithe was a slang expression?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: On what ground?

MR. MARKLE: Well, I don't understand what it's relevant to, your Honor.

THE COURT: It's cross-examination. I'll overrule the objection.

MR. MARKLE: May I have an exception?

THE COURT: Exception noted.

A Gh, not that I can recall. Can you show me that, Mr. Garry?

THE COURT: No, just answer the question.

A No, not that I can recall.

BY MR. GARRY:

- Q Does this refresh your memory?
- A Maybe it does, let me see it.
- Q I've already shown this to you.

A No, you asked me a question, the person was asking whether it was a slang -- (indicating).

Q Where it says, "At that time there was just slang they used." You did say that, didn't you?

A Yes, sir.

MR. GARRY: May that be read back?

(The court reporter complied.)

THE COURT: Well, I think at this point the jury ought to prepare for lunch. I'm sure you'll be happy to.

You may step down, Mr. Sams.

(The jury was excused at 12:53 P.M.)

(The court recessed at 12:53 P.M.)

AFTERNOON SESSION

(The court reconvened at 2:05 P.M.)

THE COURT: What I'd like to do, counsel, unless there is a pressing need, is run right through until 4:00 o'clock and then recess for the day.

All right, counsel?

MR. GARRY: Yes.

MR. MARKLE: Yes.

THE COURT: All set, counsel?

MISS RORABACK: Could I have a minute, your Honor?

THE COURT: Yes.

Is Mr. Sams being brought in?

MR. MARKLE: Yes, sir.

(The witness resumed the stand.)

THE COURT: All set, Miss Roraback?

MISS RORABACK: Yes, your Honor.

THE COURT: Call the jury.

(The Jury entered the courtroom at 2:07 P.M.)

THE COURT: All right, ladies and gentlemen.

This being Friday, what I'd like to do is go right through until 4:00 o'clock and then recess for the day.

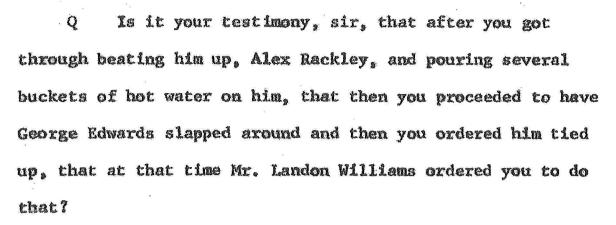
But, on the other hand, if anyone needs a recess,

just raise your hand.

All right?

Mr. Garry.

- Q Sir, you remember Mr. George Edwards?
- A Yes, sir.
- Q You beat him up, too, didn't you?
- A I slapped him, yes.
- Q And tied him up?
- A No, sir.
- Q You had him tied up?
- A Yes, sir.
- Q You ordered it?
- A I suggested it, yes.
- Q You ordered it?
- A Yes, sir,
- Q Why did you slap him?
- gested that there is a possibility that Mr. Edwards was an agent, and Landon Williams had spoke tome about it, so at that time they brought this upon my attention and I questioned George Edwards and, later on, I had him make a tape on his life. He said he wasn't a pig, he wasn't an informer, so I didn't have authorization to take him to interrogation, so I made a tape and went upstairs.



A No, sir, I didn't say that.

MR. GARRY: May I hear what he did say, your Honor.

THE COURT: It may be read.

(The previous answer of the witness was read by the court reporter.)

- Q When did you talk to Mr. Landon Williams about George Edwards?
 - A That was earlier.
 - Q Earlier, When?
- A That came out late, about Sunday morning, that something was with George Edwards.
 - Q Sunday morning?
 - A Yes.
 - Q. What time Sunday morning?
 - A About 12:00 in the afternoon.
- Q 12:00 in the afternoon. Mr. Landon Williams wasn't there then?



- A He came back around about that time.
- Q Landon Williams didn't show up until Sunday night, isn't that a fact?
 - A No, that's not so.
 - Q What time did he show up?
- A 12:00, around 12:00 in the afternoon because he went to the Adam Clayton Powell's meeting.
- Q Adam Clayton Powell was in the evening, isn't that right?
 - A Yes, sir.
- Q Well, isn't it a fact that Alex Rackley was not yet upstairs when you decided to tie up George Edwards?
- A I think he was upstairs. I think he ended up upstairs because I ordered a sister to get him some medication.
- Q You ordered some medication given to Alex Rackley before you started slapping George Edwards around?
 - A Yes, I think that was so.
 - Q You don't know, do you?
- A I think he was going upstairs at that time. He was on his way upstairs.
- Q You are just reaching out now, are you not, to implicate Landon Williams every chance you get, isn't that so?
 - A No, sir.
- Q Landon Williams was nowhere around when George Edwards
 -- when you decided to order George Edwards tied up?

A No. sir, he wasn't around.

MR. GARRY: May I hear the enswer to that?

THE COURT: It may be read.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

Q Now, that's the same George Edwards that you were charged with conspiring to kill Alex Rackley with, isn't that right?

A I don't understand what you're saying.

Q I said, is that the same George Edwards that was charged with conspiring to kill Alex Rackley?

A I still don't understand. You say he was charged with conspiring? I don't understand.

Q Is that the same George Edwards that spent several months in prison and charged with the fact of conspiring to kill Alex Rackley?

MR. MARKIE: I am going to object to this, if the Court please.

THE COURT: On what ground?

MR. MARKLE: I don't see where it is, whether he pleaded guilty to a charge. It is irrelevant at this stage.

THE COURT: I will let him answer it, if he knows. I don't know if he knows.

THE WITNESS: Yes, sir.

BY M R. GARRY:

Q Did you ever conspire with George Edwards to kill Alex Rackley?

MR. MARKLE: I am going to object to that, if the Court please.

THE COURT: I will let it be answered.

- A I just follow Party orders, and I carried out --
- Q My question was -- it's a simple one, sir -
 MR. MARKLE: May he finish his answer?

 He was answering. I don't think that's fair.

 MR. GARRY: My question was a simple one, and

 I am entitled to a direct answer.
- A I just carried out my orders.

MR. GARRY: My question was -- may I have it read, your Honor?

THE COURT: It may be read.

(The last question by Mr. Garry was read by the court reporter.)

A No, that's not so.

- Q Now, let's talk about Lonnie McLucas for a second.

 Now, you told this Court and jury and gave the impression that Mr. Lonnie McLucas was beating up Alex Rackley down in that basement, isn't that right?
 - A Yes, sir.
- As a matter of fact, you raised hail Columbia with Lonnie McLucas and slapped him around because you said he was not leaning heavy enough on the brother that you were administering corporal punishment to, isn't that right?
 - A No, sir, that's not so.
- Q You never reprimended and disciplined Lonnie McLucas for not beating up Alex Rackley?
 - A No, sir.
 - Q You sure about that?
 - A Yes, sir.
- Q Was he, in fact, not leaning heavy enough on Alex Rackley?
 - A I don't understand what you're saying by that.
 - Q You don't understand me?
- A You said, "leaning heavy enough." I don't understand what you are talking.
 - Q I said, "leaning." That's terminology that you use?
- A Interrogating. The man was half dead. What you call interrogation? I don't know.

Q I am asking you the question. Is it true that Lonnie McLucas was not bitting Alex Rackley hard enough to satisfy you?

A No, there was no satisfaction in my behalf of doing it. He was hitting him hard enough.

- Q Did you reprimand him for that?
- A No. sir.
- Q Mever, at any time?
- A Not for that, no.
- Q What did you reprimend him for?
- A I think, later on, I had a disagreement with Lonnie McLucas when he came back, and the sisters wanted to know who shot Alex Rackley first.
 - Q Did you beat him up?
 - A No. I didn't beat him up, no.
 - Q Did you slap him around?
 - A I just hit him once, yes.
 - O Hit him once?
 - A Yes.
 - Q Where did you hit him?
 - A I think I slapped him in the face.
 - Q Did he hit you back?
 - A No, because he was wrong.
 - He took it from you, right?
 - A Right.

- Q Scared of you?
- A No.
- Q For that matter, everybody in the place was scared of you, isn't that right?
 - A No, sir.
 - Q Everybody loved you there?

MR. MARKLE: I am going to object to this, if the Court please.

MR. GARRY: I will withdraw the question.
BY MR. GARRY:

- Q When did you tell us that Bobby Seale came into the house for the first time?
- A Bobby Seales came into the house around about 12:30, 1:00 o'clock.
 - Q You sure about that?
 - A Yes, sir.
- Q You weren't potted yourself at that time and wouldn't know who came in and who did not come in?
 - A No. sir.
 - O Do you know a Boudreau in San Francisco?

 MR. MARKLE: I am going to object.

 THE COURT: It may be answered yes or no.

 THE WITNESS: Who? What did you say?

BY MR. GARRY:

O Elizabeth Boudreau.

- A No. sir.
- Q You don't know her?
- A No.
- Q From San Francisco?
- A No.
- Q Do you remember a Terrill Foggy?

MR. MARKLE: Objection, your Honor.

THE COURT: That can be answered yes or no.

THE WITNESS: No.

BY MR. GARRY :

Q I show you here Defendant's No. 7, and I ask you, when you were referring to seeing the indictment slip, if it wasn't, in fact, the first page --

THE COURT: Wait a minute.

What are you referring to?

MR. MARKLE: It's not in this case.

MR. GARRY: I'm sorry.

Let me go all over it again.

At this time, if your Honorplease, may I offer in for identification what was heretofore a Defendant's Exhibit No. 7 in the McLucas case, which is the indictment, people of the State of --

THE COURT: For identification?

MR. GARRY: For identification.

THE COURT: Do you join, Miss Roraback?



MISS BORABACK: Yes, your Honor.

THE COURT: That would be "8" in Mr. Seale's case and "5" in Mrs. Huggins'.

(The indictment was marked as DEFENDANT SEALE'S EXHIBIT 8 FOR IDENTIFICATION, and DEPENDANT HUGGINS' EXHIBIT 5 FOR IDENTIFICATION, respectively.)

BY MR. GARRY:

Q I show you Mr. Seale's Exhibit for Identification
No. 8, and ask you if it is not a fact that what you actually
see there on the first page of that document is the indictment
slip that you were shown by someone?

(Indictment shown to witness.)

- A I don't know if this is the indictment, the same one I was shown, but similar to this, yes.
 - Q Did it have those names on it?
 - A Some of them, yes.
 - Q And is the name of Alex McKiever there?
 - A Yes.
- Q Would you say, Mr. Sams, that you are the type of person who would stand on your own two feet about the opinions that you have, and wouldn't let anybody push you around, whether it would be the Party or any other person?

MR. MARKLE: I object to this.

THE COURT: What's the basis, Mr. Garry?

MR. GARRY: Well, I don't want to be telegraphing

my punches.

I don't mind telling your Honor about it.

THE COURT: Oh, I will let it be answered.

MR. MARKLE: Can I have an exception.

THE COURT: Exception may be noted.

Do you understand the question, Mr. Sams?

THE WITNESS: No, I don't.

THE COURT: REad it, Mr. Reporter.

If you don't understand it, say so.

(The last question by Mr. Garry was read by the court reporter.)

THE WITNESS: No, I wouldn't say that.
BY MR. GARRY:

Q You won't. Didn't you, onone occasion, say to somebody, "When I believe I'm right, I'm willing to go against the Party and say so"?

A Right.

Q It's also true, isn't it, that you intended to kill Lonnie McLucas and Warren Kimbro if they didn't kill Alex Rackley?

A Yes, sir,

MR. GARRY: May I hear that answer back, question and answer.

THE COURT: The question and answer may be read.



(The last question by Mr. Garry and the answer of the witness were read by the court reporter.)

BY MR. GARRY:

Q It's also true, is it not, that you were smoking marijuana during the interrogation of Mr. Rackley?

MR. MARKLE: I think we have covered this. I would object.

MR. GARRY: I haven't covered it.

THE COURT: Not this part.

THE WITNESS: No, sir.

- Q I beg your pardon?
- A No, sir.



Q Page 1344 of the McLucas transcript. I'm showing you where it says, "Q" -- right here, the end of it right here, and the answer. (Indicating) "How many did you smoke?"

MR. MARKLE: I'm sorry, your Honor. Is there some conversation, I can't hear what he says. Is he asking him to look at it? There's some conversation I don't hear.

THE COURT: I heard part of it. Would you speak up so counsel can hear you, Mr. Garry.

Q I said, beginning where it says, "How many did you smoke?" and then the answer -- read that to yourself.

MR. MARKIE: Well, are we going to read the question and not the answer?

- Q Where it says, "I guess when the interrogation thing was going I smoked about maybe a joint every other four or five hours or so."
 - A Yes, that's right.
- Q So you were smoking while the interrogation was going on?
 - MR. MARKLE: I'm going to object, if the Court please. That's not what that says.
 - Q Doesn't it say it?
- A You misinterpreting. You just picking what you want to pick. Read the whole thing. If you want to read some of it read the whole thing so the jury can get the right

interpretation, and stop picking what you want to pick. Go back to the next page.

Q The back page?

A Yes, go on back some more. It should start from the beginning, Mr. Garry.

Q Where do you want me to start?

A From the beginning --

THE COURT: Wait a minute, Mr. Sams. There's no question.

BY MR. GARRY:

Q Have you read this document in the last twenty-four hours?

A Some of it, yes.

Q When did you read it?

A Oh, I read some of it yesterday, I read some of it this morning, and I didn't --

Q When did you read it yesterday?

A I read some of it yesterday, before I came on trial.

Q When I asked you that question yesterday you didn't answer that, did you?

MR. MARKLE: I'm going to object to that, if the Court please, because he did.

MR. GARRY: I don't know that Mr. Markle is entitled to testify.

THE COURT: Mr. Markle is not testifying, he's

objecting.

My recollection is that you went over this, and I think you spent considerable time on what he read and when he read it. And the jury's recollection, I think, is better than all of us so we'll let it stand the way it is.

BY MR. GARRY:

Q Is it your testimony that you told me that you read some of this transcript yesterday morning?

A No, I don't think I said I read -- I told you I read some of it yesterday, I told you that today.

Q When I asked you this question today, as to when the time was that you read it, you didn't tell me that yesterday morning you were reading this transcript.

A You told me -- asked me about my statements, that's what you asked about, Mr. Garry.

Q And I didn't ask you anything about your previous testimony, is that your testimony?

A That's my transcript of the testimony of the trial, yes.

- Q Is that your testimony?
- A Yes, right there.
- Q No. I say, are you denying the fact that I asked you about the testimony that you had given in the McLucas trial?
 - A I'm not denying you didn't ask me anything about

it yesterday, no. But I think, I don't think you asked me about this statement here, pertaining to what you are asking me now.

Q I'm asking you, did I ask you yesterday, when I was examining you, about whether you had read the testimony that you had given in the McLucas trial?

A Yes, I think you did, I'm not for sure. I think you did

Q And you did not tell me that you had read the transcript or anything yesterday morning, isn't that right?

MR. MARKIE: I'm going to object, if the Court please, because I think he read through it.

THE COURT: I'll let the answer stand where it

MR. GARRY: I don't have the enswer -- except
Mr. Markle's answer.

A I don't think you asked me especially this morning.

I think I spoke to you about the -- I'm not sure, I think I told you I read some of my statements. And if you asked me pertaining to my testimony, that's the same about that, you know. I don't think I have to tell you I read it this morning; I don't think you asked me, did I read it this morning before I came to court. I only try to be as specific as you ask me questions.

Q What did you read yesterday morning?

A The beginning, the Lonnie McLucas trial; what happened in the case, the beginning of the trial, the beginning of where I came from, and that's about it.

- Q And what did you read this morning?
- A The same thing.
- Q You read the same thing over again?
- A Yes.
- Q Now, what is it that you want me to begin reading?
- A That's up to you, Mr. Garry.
- Q But you said, why don't I do it, and I want to comply with your desire.

MR. MARKLE: I object.

THE COURT: Let's get back on the track, counsel.

MR. GARRY: Very well.

- Q When you said that you, "I guess when the interrogation thing was going I smoked about maybe a joint every other four or five hours or so," what interrogation are you speaking of?
- A As from the beginning, from the time we arrived until the end of the crime that was committed. That's what I mean about the whole interrogation, because the man was being interrogated the whole time we was there.
 - Q Well, that isn't so either, is it?

- A Yes, it's so.
- Q The only time you interrogated him was in the basement where you taped him, isn't that correct?

A No. sir.

- Q You mean, there's been other interrogations?
- A Yes, sir.
- Q When did you ever tell anybody that you interrogated him any other time, except in the basement?

A Oh, I didn't say "me." I said there was other interrogations going on from the time --

Q But we are talking about a man by the name of George Sams, Jr., not anybody else.

A No.

Q Did you ever interrogate him any more than what you did in the basement?

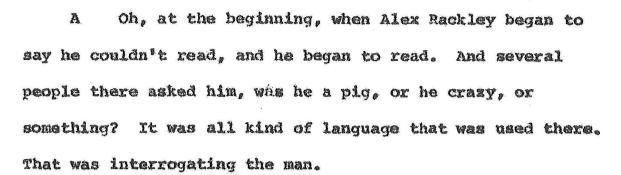
A No. sir.

Q So when, the interrogation that you're speaking of, you're talking about your own interrogation?

- A No. sir.
- Q Whose interrogation are you speaking of?
- A The whole interrogation that involved Alex Rackley, from the beginning to the end.
 - O When did it start?
- A It started from the day we picked him up into the day he was killed.
 - O The day you picked him up was when?
- A Around about Saturday, or Friday. Saturday or Friday he was picked up.
 - Q You don't know?



- A ARound Saturday night. We came up there about 12:00 -- around Friday or Saturday night about 12:00, 11:00 o'clock.
- Q Name one single question that was asked Mr. Rackley in the way of interrogation on Saturday, one single one?
 - A Well, was he an informer?
 - Q He was asked whether he was an informer, or not?
 - A Yes.
 - Q Who asked him that?
 - A Maude asked him that.
 - Q Who?
 - A Maude.
 - O Maude?
 - A Yes.
 - Q When did Maude ask him that? Did you hear --
 - A The night she went to bed with him.
 - Q Did you hear her say that?
- A No, I didn't hear her say that. She brought the information back.
- Q Did she ever, did you ever hear anybody say to Mr. RAckley on Saturday, "Are you an informer?"
 - A No.
- O All right. Now, when is the next, let's go to the next day, which is Sunday. When is the first time on Sunday that anybody interrogated Mr. Alex Rackleyin your presence?



- Q That was Sunday morning, is that right?
- A Yes.
- Q And what time was that?
- A I don't know what time it was.
- Q What time did you awaken that morning?

A I don't know, Mr. Garry. All I know, I got up in the morning, you know. I don't know what time it is. I'm not no, I don't go around and look at the clock all thetime.

I don't know. Whenever my —

Q Because, that's because you haven't been coached in that area, isn't that right?

MR. MARKLE: I object -

THE WITNESS: That's wrong.

MR MARKLE: I object.

THE COURT: You've been around long enough to know that that's not right.

- Q Nothing has been discussed in this area, isn't that right?
 - A No. I don't know what you're talking about.

- I mean, I really don't know what you talking about.
- O No one has bothered asking your questionin the area that I'm covering; that's why you don't remember it, isn't that right?
 - A No, that's not so.
- Q Then why can't you tell me what time it was Sunday morning when you started asking questions of Mr. Rackley?

MR. MARKLE: Well, we have been all over this.

THE COURT: Did you object?

MR. MARKLE: Yes.

THE COURT: I'll sustain the objection.

BY MR. GARRY:

Q How were you dressed on that morning?

MR. MARKLE: I'm going to object. We covered that.

MR. GARRY: I didn't cover it.

THE COURT: I don't know whether we have or not.

I'll let it be answered, if he can remember.

THE WITNESS: I had my clothes on, man.

- Q I asked you, what clothes did you have on?
- A The clothes that I wear.
- Q What?
- A I don't know what I was wearing at that time. Mr. Garry.

- Q You don't?
- A No.
- Q You don't remember what you were wearing?

A It was two years ago. What was you wearing twenty years ago -- you know? You tell me what you was wearing -THE COURT: All right, Mr. Sams.

THE WITNESS: The man is asking, you know, hypothetical questions.

THE COURT: Just take it easy, take it easy. Relax.

BY MR. GARRY:

- Q Have you taken a tranquillizer today?
- A No. Why?
- Q Mr. Sams, you don't remember what you wear wearing on Sunday morning, is that right?

MR. MARKLE: I'm going to object. That's been answered.

THE COURT: He said he didn't remember. Mr. Garry.

BY MR. GARRY:

Q How many reefers did you smoke of marijuana Sunday morning?

MR. MARKLE: If your Honor please, I'm going to object. I think we have been over this.

MR. GARRY: I haven't been over this. Monday

morning, yes, but not Sunday.

THE WITNESS: I don't recall --

THE COURT: Go ahead, Mr. Sams. You may answer it.

THE WITNESS: I don't recall smoking any, Mr. Garry.

BY MR. GARRY:

- Q Did you smoke any reefers at all all day Sunday?
- A It's possible.
- Ω How many?
- A Maybe one or two.
- Q All right. Now, when did the interrogation start, Sunday?

MR. MARKLE: If your Honor please, I'm going to object to this, too; Ithink we have been over all of this.

THE COURT: I'll let it be answered.

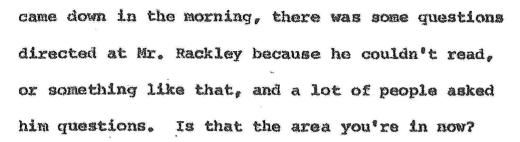
What are you talking about, let's make it clear.

MR. GARRY: The interrogation.

THE COURT: The interrogation, what do you mean, in the basement or where? Where are we?

MR. GARRY: Well, I'm trying to find out from him when it started, and where it was.

THE COURT: Well, you asked him some questions very similar to that, and he indicated that when he



MR. GARRY: Yes.

THE COURT: Go ahead.

the WITNESS: Well, I guess that must have been around about, maybe 8:00 or 9:00 in the morning.

BY MR. GARRY:

- Q 8:00 or 9:00? Howlong did the incident in the living room take place, where you proceeded to beat him up and broke a stick on him?
 - A Oh, I'd say about fifteen minutes.
 - Q And would you describe thestick that you used?

MR. MARKIE: I'm going to object. We've been over that.

MR. GARRY: Not with this witness.

THE COURT: I don't think he asked him to describe it. I think some other witness described it.

A It was a big oak stick, you know, about that big. (Indicating)

Q That big around?

A Yes, a broom, you know, you know, like the large brooms that you have. I think a broom oak stick.

Q How wide was it, would you show us with your fingers how wide it was?

A About that wide. (Indicating)

Q And you are indicating the size of about an inch and a half in circumference?

A I don't know, I'm not a carpenter.

Q You're not a carpenter? I didn't ask you whether you were a carpenter or not.

A Well, I don't know, Mr. Garry.

THE COURT: Why don't you make the estimate,
Mr. Garry, and ask Mr. Markle if he agrees with it.

MR. GARRY: I suggested about an inch and a half in circumference.

THE COURT: Do you agree?

MR. GARRY: From what he was describing.

MR. MARKLE: All right.

THE COURT: All right.

BY MR. GARRY:

- Q And it was round, is that right?
- A Yes.
- Q And it was made out of oak?

MR. MARKLE: If your Honor please, we have described it, we have been over it.

THE COURT: Overruled.

- A Yes, I guess it was made out of oak, I don't know.
- Q And how long was it?
- A About that long. (Indicating)
- Q I would say it's about four feet, your Honor.

THE GOURT: Mr. Markle?

MR. MARKIE: Fine.

THE COURT: Four feet.

BY MR. GARRY:

- Q And then from there you went down to the basement?
- A Yes.
- Q And in the basement -- this was after you'd offered him a chance to go home, or leave the premises?
 - A Yes.

MR. MARKLE: Now, if the Court please, we surely have been over this, and it's just repetitive.

MR. GARRY: I told the Court at the time that

I was coming back to this.

THE COURT: Well, Mr. Garry, just because you told me you were coming back doesn't mean that he can't make an objection.

MR. GARRY: Well, I wanted to tell your Honor.

THE COURT: You've been over it. I'll sustain
the objection, but I'll let this question be
answered.

A Yes.

BY MR. GARRY:

Q And when you went downstairs, you ordered some hot water?

MR. MARKLE: Now, I'm going to object, if the Court please. We surely have been over this.

THE COURT: I'll sustain the objection.

MR. GARRY: I have not asked a question of this man, that he ordered hot water.

THE COURT: I sustained the objection.

MR. GARRY: Take an exception.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q How many buckets of hot water did you pour over Mr. Rackley?

MR. MARKIE: If your Honor please, I am going to object to this because we covered this yesterday.

THE COURT: Sustain the objection.

MR. GARRY: I never asked him how many buckets of hot water he poured over --

THE COURT: Sustain the objection, Mr. Garry.

If you care to take an exception --

MR. GARRY: I'll take an exception.

THE COURT: All right.

- Q How long did the incident down the basement take?
- A About twenty-five minutes, a half hour, or so.
- Q So there was fifteen minutes upstairs, and about twenty-five or thirty minutes downstairs, is that right?
 - A I didn't say thirty minutes, Mr. Garry.
 - Q All right. Thirty minutes downstairs?
 - A I didn't say thirty minutes, Mr. Garry.
 - Q What did you say?
 - A I guess fifteen or twenty-five minutes.
 - Q Downstairs?
 - A Yes.
 - Q All right. And about fifteen minutes upstairs?
 - A Yes, sir.
- Q Now, was there, outside of the tape recording that you ordered made, was there any other interrogation made of Mr. Alex Rackley?
 - A Well, yes.

- Q Where and when, and by whom?
- A Upstairs, in the bed, when he was tied up.
- Q You did it yourself?
- A Sir?
- Q You heard my question, didn't you?
- A No, I didn't hear you.

MR. GARRY: May that be read?

(The question by Mr. Garry was read by the court reporter.)

- A Did what, myself?
- Q Interrogated?
- A Yes.
- Q What did you ask him?

A Oh, I asked him, was he an agent, or why was he lying, and who was the informers of the Party who busted the New York 21? And he just kept saying, at one point he say, "I don't know," at one point he began to name sisters and brothers of the Party, and then he began to say he didn't know. He just kept going off and on.

- Q You had gone through all of that, hadn't you, Mr. Sams, downstairs in the basement; you had poured hot water on him and taken his statement on the tape recorder, you'd already gone through the same questions, isn't that right?
 - A No. sir.
 - Q You mean, you asked him some new questions?



- A Downstairs, yes.
- Q I'm talking about upstairs?
- A Oh, upstairs I didn't interrogate him.
- Q Well, I thought you just got through telling me upstairs you asked him some questions?

A I asked him only one question upstairs when he was up there. But you asked me, was he interrogated by anybody.

Q What did you ask him upstairs?

A I asked him upstairs, did he know who the informers was, again, and he said, "No." And I asked him again upstairs, was he the informer? And he said, "No," and did he know about the New York 21 bust? And I told him — and he said, "No." And Landon Williams told me that he was lying, that he did know; he was supposed to be involved in it because we had been arguing down in the basement at the point —

MISS RORABACK: If your Honor please -excuse me, Mr. Sams -- it seems to me we have gone
into a conversation in which my client is not present,
and I object to any testimony concerning it.

THE COURT: Do you want to press it?

BY MR. GARRY:

Q Was Landon Williams --

MR. MARKLE: Well, can be finish then, your Honor? She interrupted. She interrupted.

MR. GARRY: Obviously -- I don't know if the



question is responsive or not. I'm not pressing it.

THE COURT: All right.

BY MR. GARRY:

- Q When you asked him the question upstairs -- you said you only asked him one question?
 - A Uh-huh.
 - Q And what was that one question that you asked him?
 - A Was he a pig? He said, "No."
 - Q So that's all you asked him, isn't that right?
 - A Yes.
- Q You were never trusted by the Black Panther Party, were you?

MR. MARKLE: I'm going to object, if the Court please, now, we --

THE COURT: I'll sustain the objection.

MR. GARRY: Take an exception.

THE COURT: Exception may be noted.

BY MR. GARRY:

You thought Mr. RAckley was a junkie, didn't you?

MR. MARKLE: I object to this.

THE COURT: I'll allow the answer.

THE WITNESS: Yes.

BY MR. GARRY:

- Q It's a fact, is it not, when June Hilliard, at any time he came into the premises, he would not talk because he said he believed the place was bugged?
 - A Yes, at one time, yes.
- Q You've never been a Field Marshal of the Black Panther Party, have you?
 - A Yes.
- Q When were you a Field Marshal of the Black Panther Party?
- A I was a Deputy Field Marshal under Don Cox, the Field Marshal in Algeria. He made me a Field Marshal one time when I was in Washington, D. C., when I was in Boston, he made me a Field Marshal at Mobile, Alabama; that's the Field Marshal of the Central Committee, and he had powers to make a member whenever he pleased at that time.

HISS RORABACK: May I have that read, your Honor?

(The court reporter complied.)

BY MR. GARRY:

Q Well, you were working under Stokely Carmichael at that time, were you not?

MR. MARKLE: I'm going to object, if the Court please. I don't know where we are going. It has no relevance to this and it is not within my direct.

THE COURT: I'll let it be answered.

MR. MARKLE: May I have an exception?

THE WITNESS: No, that's not true.

BY MR. GARRY:

Q Well, Stokely was working with Donald Cox, and the three of you were working together, isn't that right?

A Yes, sir.

MR. MARKLE: I'm going to object -All right.

BY MR. GARRY:

Q And so, when Stokely Carmichael left the Black
Panther Party, you decided to move in and destroy the Black
Panther Party yourself, isn't that right?

A No, sir.

Q And you demonstrated, and tried to tell the people here in New Haven, that you were a Deputy Field Marshal, did you not?

A No, sir.





- Q You mean you never used that rank, that you said that Donald Cox and Stokely Carmichael bestowed upon you at any time in New Haven?
 - A No. sir.
 - Q You're positive?
 - A Yes, sir.
- Q I think you told us yesterday that you came to New York to straighten out the ideology of the Black Panther Party in New York, that's what you told us, isn't that right?

MR. MARKLE: Now, I'm going toobject, if the Court please. He testified he was sent here by Landon Williams to do that.

THE COURT: I'll let it be answered.

THE WITNESS: Yes, sir.

BY MR. GARRY:

- Q Well, isn't it a fact that the Party thought that your ideology was pretty bad?
 - A No. sir.
 - O Theydidn't think that your ideology was slipping?

 MR. MARKLE: Can we have when he's talking

 about, your Honor, because --

THE COURT: When, Mr. Garry?

MR. GARRY: During the time that he was here.

MR. MARKLE: Well, now, your Honor.

THE COURT: In New Maven? New Maven?





HR. GARRY: New Haven and New York.
THE WITNESS: Yes, sir.

BY MR. GARRY:

- Q Would you say you were Mr. Landon's right hand man?
- A At that time, yes, sir.
- Q You were never told to interrogate Mr. Rackley at any time, were you?
 - A Yes, sir.



BY MR. GARRY:

Q Page 7, the statement made 21 August, 1969, here in New Haven, present Sergeant DeRosa, somebody by the name of Morse. ((Indicating)

When Sergeant DeRosa asked you the question as to whether Mr. Landon Williams told you, when he was -- when you got in New Haven, that you were going to interrogate Mr. Rackley, you said, "No," isn't that right?

A Yes, sir.

THE COURT: Would you read the last two questions and answers, Mr. Reporter.

(The last four questions by Mr. Garry of the witness, and the answers of the witness, were read by the court reporter.)

MR. MARKLE: Your Honor, it's not inconsistent, I submit.

THE COURT: The jury heard it.

BY MR. GARRY:

Q Sir, did you know a person by the name of Wolterding?

MR. MARKLE: I am going to object, if the

Court please.

THE COURT: Let it be answered "Yes" or "No."
THE WITNESS: Who? What did you say?

BY MR. GARRY:

Q Shirley Wolterding.

A No. sir.

Q You did not meet a person by the name of Shirley Wolterding in New York after you left here?

MR. MARKLE: I am going to object now, if the Court please, your Honor.

THE COURT: He answered "No," he doesn't know her, Mr. Garry.

BY MR. GARRY:

Q When you left here, did you go to New York?

MR. MARKLE: I'm going to object.

That's outside the scope of my direct.

THE COURT: Sustained.

BY MR. GARRY:

Q Isn't it a fact that you -- when you left here, you got involved with a Miss Wolterding and ordered her around, beat her up?

MR. MARKIE: I'm going to object, if your Honor please.

THE COURT: Sustained.

MR. MARKLE: I ask that the jury --

THE COURT: Don't pursue it, Mr. Garry.

MR. GARRY: I take exception.

THE COURT: Exception noted.

MR. GARRY: Perhaps we'd better clarify this thing outside the presence of the jury.



THE COURT: You asked a question, Mr. Garry.
You asked if he knew Shirley Wolterding, and he said, "No."

MR. GARRY: Then my next question was, did you do something to a person in New York?

THE COURT: No.

MR. GARRY: My next question was, "Did you go to New York?"

THE COURT: Take an exception, Mr. Garry.

I sustained the objection.

BY MR. GARRY:

Q Did you go to New York from here?

MR. MARKLE: I'm going to object.

It's outside the direct.

THE COURT: Sustain the objection.

It's outside the direct. It's after the conspiracy. We went all over the events that occurred here.

MR. GARRY: Well, my next line of questioning is going to be on matters that he left here and his conduct thereafter, and perhaps we should have a legal argument on this.

THE COURT: The jury is excused.

(The jury was excused at 3:10 P.M.)

THE COURT: Yes, Mr. Garry.

MR. GARRY: I propose to go into the area of what he did after he left here, as to his conduct and his credibility, his involvement with drugs in New York, and I intend to go into what he did in Chicago after he left here, what he did in Detroit, where he committed rape on a member of the Black Panther Party, and I intend to go into that extensively.

I intend to also go into his conduct in Toronto, Canada, where he spent several months. I propose to go into his conduct in that area and his propensity for violence and his propensity of distorting certain factual matters there, telling people different things; he told different things to people in New York immediately after this event, and his participation and his involvement, and I intend to go into all of those areas, and I am prepared to go into them, I am prepared to submit -- to bring witnesses in this area, to show his conduct and his marauding around throughout the country, and I intend to show why he has this antagonism and hatred for the Black Panther Party.

I intend to show bias and prejudice against
Mr. Seale. He has expressed bias and prejudice to



people against Mr. Seale. I intend to go into all those things.

THE COURT: Mr. Markle.

MR. MARKLE: If your Honor please, I am going to object, and I objected before to his trying to show, supposedly, his character, its not relevant here, your Honor, and I would object to it, and this whole line that he proposes, the rape, Toronto, your Honor stopped me when they had objection, they objected when we got to the 21st day. I believe it was, of finding of a body, and that was the end of it, your Honor, and your Honor stopped me, and they were the ones that made the objection, and that is where I am on direct, and I don't think they can go beyond that, and I think that the offer is without purview at all, on other grounds as well, that it's not relevant, has nothing to do with the one test that would be put to him, and it's just cluttering the record on collateral issues, your Honor, and I object.

THE COURT: Well, I am going to rule on each offer as made.

I have ruled on this question here. You may put your next question and make whatever offer you want, and I will rule on it, Mr. Garry.

MR. GARRY: Well, my next area will be in Chicago and Detroit.

THE COURT: Put your questions.

MR. GARRY: The questions I am going to ask him are if it's not a fact that he went to Chicago, and from Chicago, he went to Detroit and there he attempted to rape a girl, a member of the Party, a young girl.

THE COURT: Bring in the jury, and put your question, and I will rule on them.

(The jury entered the courtroom at 3:13 P.M.)
BY MR. GARRY:

Q Mr. Sams, you know a person by the name of Yvonne?

MR. MARKLE: I am going to object, if the

Court please.

THE COURT: I'll let the question be answered "Yes" or "No."

Did you hear the question?

THE WITNESS: No. No. I didn't.

THE COURT: Read it, Mr. Reporter.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: No. sir.

BY MR. GARRY:

Q You don't know a person by the name of Yvonne?

MR. MARKLE: I object.

THE COURT: He answered it, Mr. Garry.

BY MR. GARRY:

Q Do you know a person by the name of Chackles?

MR. MARKLE: I'm going to object.

THE COURT: How do you spell it, Mr. Garry?

MR. GARRY: C-h-a-c-k-l-e-s.

THE WITNESS: No.

MR. MARKLE: I'm going to object -- all right.

BY MR. GARRY:

Q Did you go to Chicago after you went to New York?

MR. MARKLE: Objection, your Honor.

THE COURT: I'll let it be answered.

MR. MARKLE: It's outside the scope of the direct.

THE COURT: I'll let it be answered,

THE WITNESS: What did you say, did I go to

Chicago after New York?

BY MR. GARRY:

Q Yes.

A Yes.

Q And in Chicago, you met some people, and you went on to Detroit, is that right?

MR. MARKLE: I object to this, if the Court please.

The Court wouldn't let me go into it, I couldn't even touch what happened after --

THE COURT: This is cross-examination.

MR. MARKLE: On something I never touched on direct.

THE COURT: I will let this be answered.

MR. MARKLE: Might I have an exception, your Honor?

THE COURT: Exception may be noted.
THE WITNESS: Yes.

BY MR. GARRY:

Q And when you were in Detroit, you were charged by the Party with misbehaving with two women, is that right?

MR. MARKLE: I'm going to object to that, and I claim it's highly prejudicial, your Honor.

THE COURT: Sustained.

MR. MARKLE: I ask that it be explained to the jury --

THE COURT: It's prejudicial, and the question may be stricken.

MR. GARRY: I take exception to it.

THE COURT: Exception may be noted.

(Page 2019 follows; no omission.)

BY MR. GARRY:

Q Were you charged by the Party with a violation of Party rules?

MR. MARKLE: I'm going to object to that.

THE COURT: Sustained.

MR. GARRY: Exception, your Honor.

THE COURT: Exception may be noted.

MR. GARRY: My questions along these lines, if your Honor please, -- I'm going on to Toronto, Canada --

THE COURT: I will rule on your questions as you put them, Mr. Garry.

MR. GARRY: Well, if your Honor is not going to permit me to ask these questions, --

THE COURT: I don't know what the questions are that you are going to ask.

MR. GARRY: I am going to ask him --

THE COURT: Put them, and I will rule on them.

BY MR. GARRY:

Q Eventually, did you go back to Chicago, and from Chicago you went back to Detroit?

MR. MARKIE: I'm going to object to this.

THE COURT: I'll let that be answered.

MR. MARKLE: Exception.

THE COURT: Exception may be noted.

THE WITNESS: Now, could you restate that,

please?

THE COURT: It may be read.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: Yes.

BY MR. GARRY:

Ω And from Detroit, youwent on into Toronto, Canada, is that right?

MR. MARKLE: I'm going to object, if the Court please.

THE COUNT: Overruled.

It may be answered.

MR. MARKLE: May I have an exception?

THE COURT: Exception may be noted.

MR. MARKLE: Thank you.

BY MR. GARRY?

Q What did you do in Toronto?

THE COURT: Wait a minute.

I don't think he answered that last question.

Read it.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITHESS: No. I mean, you're saying I went straight to Toronto from Detroit?

BY MR. GARRY:

- Q I didn't use the word "straight."
- A No, that's not true.
- Q You didn't --
- A That's not true.
- O Did you go to Toronto from Detroit?
- A No, that's not true.
- Q Where did you go from Detroit?

MR. MARKLE: I object to this, if the Court please.

I don't know --

THE COURT: I will overrule the objection, Mr. Markle.

MR. MARKLE: May I have an exception?

THE COURT: Exception noted.

THE WITNESS: From Detroit I went to Inkster, Michigan.

BY MR. GARRY:

- Q From there, where did you go?
- A To Canada.
- Q Where in Canada?

MR. MARKLE: I object, if the Court please.

THE COURT: Overruled.

MR. MARKLE: Exception.

THE COURT: Exception.

THE WITNESS: Toronto.

BY MR. GARRY:

O And what did you do in Toronto, Canada?

MR. MARKLE: I object to that.

THE COURT: Sustained.

BY HR. GARRY:

What name did you use in Toronto, Canada?
MR. MARKLE: I object to that.
That was already covered.
THE COURT: It's been answered.

BY MR. GARRYE

O How long did you remain in Canada?

MR.MARKLE: I object to that.

THE COURT: Sustained.

MR. GARRY: I take exception to all of those.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q Did you meet a Miss Maryann Murphy there?

MR. MARKLE: I object to that, if the Court please.

THE COURT: It may be answered "Yes" or "No."
THE WITNESS: Yes.

BY MR. GARRY:

Q Did youmeet a person by the name of Lisa there?

MR. MARKLE: I object to that.

THE COURT: It may be answered "Yes" or "No."

MR. MARKLE: Exception.

THE COURT: Exception noted.

THE WITNESS: No.

BY MR. GARRY :

Q Did you meet anybody else besides Mrs. Maryann Murphy?

MR. MARKLE: I object to that.

THE COURT: Sustained.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

BY MR. GARRY:

O Did you beat up a West Indies Indian while in Toronto, Canada?

MR. MARKLE: I object to that.

THE COURT: Sustained.

MR. MARKLE: I ask that it be stricken.

MR. GARRY: Exception.

BY MR. GARRY :

Q Were you accused of being aninformer while you were in Toronto, Canada, by the people that you were living with?

MR. MARKLE: I'm going to object, if the Court

please.

THE COURT: Sustained.

MR. GARRY: Exception, your Honor.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q You were arrested in the 7th day of August, 1969, were you not, in Toronto?

MR. MARKLE: Objection, if the Court please. We covered it.

THE COURT: It may be answered.

MR. MARKLE: May I have an exception?

THE COURT: Exception.

THE WITNESS: I was arrested somewhere around there, yes.

BY MR. GARRY:

Q And before you were arrested, you made a telephone call to Detroit, Michigan, did you not?

MR. MARKLE: I'm going to object to that.

I don't know where we are going, your Honor.

THE COURT: Sustained.

MR. GARRY: Exception, your Honor.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q And from August 7th until August 16th, we don't have any recorded statements made by you. What did you do during that period of time?

MR. MARKLE: Object to that, if the Court please.

THE COURT: Sustained.

MR. GARRY: Exception, your Honor.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q Did you make any statements to any of the Canadian -- Toronto Police, and particularly the investigating body, political investigating body, in Toronto, Canada, between August 7th and the 16th?

MR. MARKLE: I am going toobject to that, if your Honor please.

THE COURT: It may be answered "Yes" or "No."
THE WITNESS: No, sir.



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MR. GARRY: I didn't get the answer.

THE COURT: Read it, Mr. Reporter.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

Q What did you do during that period of time?

MR. MARKLE: I am going to object, if the

Court please. You just ruled on that, your Honor.

THE COURT: I ruled on that, Mr. Garry.

BY MR. GARRY:

Q Did you have an attorney representing you during that period of time?

MR. MARKLE: I will object to this also.

THE COURT: Sustained.

MR. GARRY: Exception.

THE COURT: Exception.

BY MR. GARRY:

Q Was there a person by the name of Attorney Roach representing you during that period of time?

MR. MARKLE: I am going to object, if your Honor please.

THE COURT: Sustained.

MR. GARRY: Exception.

THE COURT: Exception.

BY MR. GARRY:

Q When was the last time that you had talked to Stokely Carmichael?

MR. MARKIE: I object, if the Court please.

THE COURT: I will let it be answered, if he knows.

MR. MARKLE: May I have an exception on that?

THE COURT: Exception.

A The time he left for Africa. That was around '69, somewhere around there.

Q The time when you left for Africa?

A Stokely.

Q You didn't go to Africa, did you?

A No.

Q And you haven't seen him since then, is that right?

A Right.

Q Did you ever tell Liz Boudreau that you had stabbed a brother and fled to Canada?

MR. MARKLE: I object to that, if the Court please.

THE COURT: Sustained.

MR. GARRY: Exception.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q Did you tell that same person that you were placed

in a mental institution as a result thereof?

MR. MARKLE: I am going to object.

THE COURT: Sustained.

MR. GARRY: Exception.

BY MR. GARRY:

Q Did you tell that same person that every time you get in any difficulties with the law, that you can always go to a psychiatrist or a mental institution and eventually get out of it?

MR. MARKLE: I will object, if the Court please.

I think he said he didn't even know --

THE COURT: Sustained.

MR. GARRY: Exception.

THE COURT: Exception.

BY MR. GARRY:

Q Did you tell anybody the fact that every time you get in any difficulty with the law, you know how to get out of it, by going to a psychiatrist or to a mental hospital?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

MR. GARRY: Exception, Judge.

BY MR. GARRY:

Q Did you ever tell anybody that you had a steel plate in your head?

MR. MARKLE: Objection, your Honor.

THE COURT: I will let that be answered.

MR. MARKLE: Can I have an exception, your

Honor?

A Yes, I think I mentioned that to the doctor because I was informed by my parents that there was a possibility that this took place, yes.

Q What doctor did you tell that to?

MR. MARKLE: I am going to object to this.

It's irrelevant to anything.

THE COURT: I know it is, but I am going to allow it.

Go ahead. It may be answered.

- A I think I informed Doctor Miller.
- Q Is that the same doctor that you gave a painting to?
- A Yes.
- Q Who else have you given paintings to?
- A A lot of people, inmates, a lot of people.
- Q Have you given one to Mr. Markle?
- A Yes.
- Q Given one to Sergeant DeRosa?
- A Yes.
- Q Who else have you given a painting to that's in an official body of this --

THE COURT: What difference does that make, Mr. Garry?

MR. GARRY: Well, I think it's relevant.

If your Honor doesn't feel that it is, I won't pursue the question.

THE COURT: At least, he hasn't given me one.
MISS RORABACK: Nor me.

MR. GARRY: I want to be sure, your Honor, that I am not leaving anything out and, at the same time, I don't want to be repetitious. That's why I am taking a little longer time with my notes.

THE COURT: Take all the time you want, Mr. Garry.

BY MR. GARRY:

Q It's a fact, is it not, Mr. Sams, that you don't know whether Mr. Seale came there, you didn't see him make a phone call in the morning of the 20th?

MR. MARKLE: I will object to that. It's already been answered.

THE COURT: Sustained.

MR. GARRY: I didn't ask this question, Judge.

MR. MARKLE: I asked him when he woke up --

MR. GARRY: This was covered in direct. I haven't gone into this.

MR. MARKLE: He asked him when he woke up that morning. He said he came downstairs.

MR. GARRY: He didn't do it with me.

MISS RORABACK: Monday morning.

THE COURT: What day are you referring to?

MR. GARRY: Tuesday morning, Judge.

THE COURT: Tuesday morning.

I will let it be answered. I'm not certain.

I will overrule the objection.

MR. MARKLE: Might I have an exception.

THE COURT: Yes.

Do you know what the question is?

THE WITNESS: No.

THE COURT: Would you read it?

(The last question by Mr. Garry was read by the court reporter.)

THE COURT: Do you want to restate it or is that all right?

MR. GARRY: That's all right.

A No. Mr. Garry, I still don't understand it. You say, is it a fact. Would you be more specific.

Q You did not see Mr. Seale make a telephone call on the morning of the 20th, did you, sir?

A When he came in the house? No, I didn't see him make it, no.

MR. GARRY: May I have that read back, Judge.

THE COURT: Read it.

(The answer of the witness was read by the



court reporter.)

BY MR. GARRY:

Q When you say you did not see him make it, you are talking about the fact that you did not see Mr. Seale make a telephone call on the morning of the 20th, that's what you are saying, is that right?

A Yes, sir.

MR. GARRY: I have no further questions.

THE COURT: Miss Roraback.

MR. GARRY: One moment, Judge.

THE COURT: Yes.

MR. GARRY: I have no further questions, Judge.

THE COURT: Miss Roraback.

CROSS EXAMINATION BY MISS RORABACK:

- O Mr. Sams, I believe Mr. Markle asked you whether or not you pleaded guilty to second degree murder and you stated you had?
 - A Yes, Ma°am.
- Q And you were also charged, were you not, Mr. SAms, with aiding and abetting the commission of a murder?
 - A Yes, Ma'am.
- Q And you were also charged with kidnapping resulting in death, is that correct?
 - A Yes, Ma'am.
- Q And you were also charged with conspiracy to commit murder?
 - A Yes, Ma'am.
- Q And you were also charged with conspiracy to commit kidnapping?
 - A Yes, Ma'am.
 - Q And you werealso charged with binding?
 - A Yes, Ha am.
- Q Can you tell me whether or not any disposition has been made of those charges?
 - A Could you explain what you mean by, "disposition"?
- Q Well, what happened to those charges? I will ask you that way.
 - A I talked to my lawyer. He told me there is a

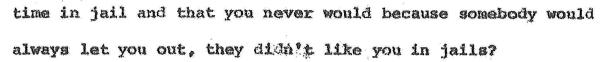


possibility that some of the charges still exist, he don't know for sure, but they may be nolled. He's not for sure as of yet, so.

- Q And it's a fact, is it not, that you have been told that they will be nolled?
 - A Through my attorney, yes.
- Q And have you been sentenced on the charge of your plea to second degree murder?
 - A No. Ma am.
- Q Have you had any conversations with anyone as to what the sentence will be for that?
 - A No, Ma am.
 - Q No one has told you what your sentence will be?
- A The attorney came forth and pleaded guilty.

 He just explained to me that it was 20 to life bid, it's mandatory. That was during my plea. That's all I know.
- Q And has your attorney said anything to you or has Mr. Markle said anything to you as to what might happen if you appeared before the Parole Board?
- A My attorney and Markle said he wasn't object to the fact that I made adjustments during the time of parole, whenever I came up for the Parole Board, he wouldn't, what you say, object to it, whatever you call it.
- Q Now, Mr. Sams, didn*t you brag to some of the brothers and sisters at Orchard Street that you never did spend any real





- A No, ma am.
- O Never said that?
- A No, Ma am.
- Q You never told anyone there at Orchard Street that you'd never have to serve any time for anything?
 - A No. Ma'am.
- Q Mr. SAms, when you came to New Haven, did you have any position at all in the Black Panther Party?
- A Yes, at thattime I was a sub-section leader.

 I was under Mr. Landon Williams.
 - O A sub-section leader?
 - A Yes.
 - Q And is that question withdrawn.

And what was Mr. Williams' position in the Party?

- A Mr. Williams, at that time, was Chairman Bobby's right-hand man. He was a Colonel and supposed to be a Field Marshal and Section Leader. He was a lot of things.
 - O Field Marshal and Section Leader?
 - A Yes.
- Q When you say a Section Leader, what section are you talking about? Is that geographical or is it on the East Coast or are we talking about a section of some chapter.

or what?

A No. He was the section leader from National Headquarters and he was a member of the Central Committee. That was Landon Williams' position on the West Coast, and he was a Field Marshal, Section Leader at that time, was a member who went around and did Party work and organized communities in a 10-10-10 fashion, you know, organizing the community and getting it all together.

Q And when you said you were a sub-section leader, you were sort of in charge of getting the community together, getting it together, too?

A Yes.

Q And when you came to Connecticut, you first went to see Warren Kimbro, right?

A Yes, Ma'am.

Q And he was the Deputy Chairman for Connecticut, is that right?

A Yes, he was somewhere around there, Deputy Chairman or Captain. Warren, I don't know what he was, a lot of things.

Q When you say Deputy Chairman, just to get this straight, is it correct, Mr. Sams, that each Chapter of the Black Panther Party, the Deputy Chairman is, in fact, the person in charge of that part of the Party?

A Yes, Ma'am.



- Q So that when you say that Warren Kimbro was Deputy Chairman of New Haven, he was in charge of New Haven, is that correct?
 - A Yes, Ma'am.
- Q And Lonnie McLucas, I think you said at one point -- question withdrawn.

Lonnie McLucas was a Lieutenant, is that right?

- A Yes, Ma'am.
- Q And was a Lieutenant in the Black Panther Party?
- A A Lieutenant is another officeof rank, who has authority to see that things are taken care of in the Party. He has a certain amount of knowledge of the Party. He help organize things, keep things in place. That would be about all that.
- Q So he was sort of second in command in New Haven, is that right?
 - A Yes, Ma am.
- Q When you came to New Haven, were you sort of over Mr. Kimbro and Mr. McLucas or --
 - A No.
- Q As a Section Leader from the Coast, you didn't have any authority over them, is that right?
 - A To some degree, yes.
- Q And wouldn't it have generally have been expected that -- well, question withdrawn.



Certainly, Landon Williams was over them, is that right?

- A Yes, Ma'am.
- Q And when Landon Williams wasn't there in New Haven, you were pretty much in charge, weren't you, Mr. Sams?
 - A Yes, Ma'am.



(Page 2039 follows - no omission)

BY MISS RORABACK:

Q And, as I understand it, after you arrived in New Haven on the evening of May 17th, and that's that Saturday evening, with Chairman Brothers from New York -- rather Deputy Chairman Brothers from New York, and Zayd and Tina and the others, and Mr. Rackley, later on that evening, Landon Williams left, is that right?

A Yes. Ma'am.

Q And after Landon Williams left, you were there sort of in charge of that house, is that right?

A Yes.

Q Now, isn't it true, Mr. Sams, that the first thing that you did when you got to New Haven was to go out and look for some marijuana?

A Yes.

Q And did that happen right after you arrived?

A Oh, no, it didn't happen right after I arrived.

About twenty minutes after I arrived, I was ordered to go get some marijuana.

Q You were ordered to?

A Yes.

Q It wasn't your idea?

A Mafam?

Q It wasn't your idea?

A No.

- Q Who told you to go out and buy that marijuana?
- A Landon Williams.
- Q Wasn't that the first thing that Landon Williams said after he got in that house?
 - A No, not the first thing.
 - Q Well --

MISS RORABACK: Excuse me just a moment, your Honor.

THE COURT: Surely.

BY MISS RORABACK:

- Q Do you remember testifying in the McLucas trial, Mr. Sams?
 - A Yes. Ma'am.
- Q I show you a portion of that transcript, Mr. Sams, what is marked 102, what I am going to show you is 1272 in the renumbered pages. I ask you to read the top of that page. (Indicating)
 - A Right here now, or this portion here? (Indicating)
 - Q Yes.
 - A "When I got to New Haven" --
- Q I don't mean to read it out loud, I'm sorry. At least, I assume Mr. Markle doesn't want it read.

MR. MARKLE: Excuse me.

No, I don't mind if he reads it.

I have no objection.



THE WITNESS: All right.

BY MSS RORABACK:

- Q You read that, --
- A Yes, Ma am.
- Q -- Mr. Sams?
- A Yes.
- Q And when you testified in the McLucas trial you didn't mention anything about Mr. Landon Williams saying anything before he told you to go get the marijuana?

MR. MARKLE: I object to that, if the Court please.

That's not what this witness said in the transcript. It's unfair to the witness, your Honor.

MISS RORABACK: I think it is.

THE COURT: The jury heard the whole thing, what he said about they arrived in New Haven up to the minute after when he was sent out to get some marijuana.

Now, I don't know whether you call that immediately or not, but the jury will decide what it is.

They are in charge of the facts.

MISS RORABACK: Could the question be read back?

THE COURT: The question may be read.

Which question?

MISS RORABACK: My last question, which I don't

believe was answered.

THE COURT: I don't know, I guess I missed it.
Read it, Mr. Reporter.

(The last question by Miss Roraback of the witness was read by the court reporter.)

MR. MARKLE: I have an objection to it, your Honor.

THE COURT: What is the objection?

MR. MARKLE: The objection is that's not exactly what has just been shown in the transcript. It's not inconsistent, and I think it's unfair.

He just answered the question in the very same way that she just put this question to him.

THE COURT: I don't know whether it's inconsistent or not inconsistent, or what it is.

The jury heard both.

Well, they didn't hear the version in the transcript, they didn't read it, that was not read to them.

MISS RORABACK: That's right, your Honor.

THE COURT: Can you answer that, Mr. Sams?

THE WITNESS: Well, she asked me -- I don't understand the question.

Could she restate it?

THE COURT: Restate it, Miss Roraback.



BY MISS RORABACK:

- Q Mr. Sams, just to go back a couple of steps, because I'm losing the chain, too, you came to New Haven, right?
 - A Yes, Matam.
 - Q And you came with Landon Williams and these others?
 - A Yes, sir.
- Q And when you got to the house, Landon Williams told you to go out and buy some marijuana?
 - A Yes, sir.
- Q That was really the first thing he said to you, wasn't it, just about?
 - A When I was in the house, yes.
- Q After you were in the house, about the first thing he said to you was to go out and get marijuana?
 - A Yes.
 - Q And you went out right after that, right?
 - A Yes.
- Q And how long were you gone, Mr. Rackley -- I mean, Mr. Sams?
 - A I was gone about an hour -- a half hour or something.
- Q And you said there were these two young ladies with you, is that right?
 - A That's right.
- Q And after you came back to the house, Mr. Williams was still there?



- A Yes.
- Q And Mr. Hithe was still there?
- A Yes.
- Q And Alex Rackley was still there, right?
- A That's right.
- Q Warren Kimbro and the others?
- A Yes.
- Q Were they all in the living room when you came in, do you remember?
 - A Some was in the living room, some was in the kitchen.
 - Q Do you remember where Alex Rackley was at that time?
 - A I think he was in the living room.

- Q And he was just sitting there quietly, wasn't he?
- A I don't know what he was doing.
- Q What?
- A I don't know exactly what he was doing.
- Q And at some point, Landon Williams left?
- A That's right.
- ? Now, about how long was LandonWilliams there after you got back from getting this marijuana? How long was he there?
- A That was around about 1:00 o'clock when I got back.

 I was around about twenty-five minutes after he left.
 - Q So he was theremaybe a half hour after you got back?
 - A Yes.
- Q And during that half-hour period, do you remember where Mr. Rackley was?
 - A No, Ma'am.
 - O You don't?
 - A No.
 - O Do you remember where Warren Kimbro was?
 - A No.
- O There were a whole bunch of people in the living room and kitchen at that time?
 - A Yes, Ma am.
 - Q All these people that had come from New Work?
 - A Yes, Ma'an.

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- Q And the ones that had been in New Haven?
- A People from New York, when I got back, had left.
- Q And the people from New York had left when you got back?
 - A Yes.
 - O Landon Williams left?
 - A No.
- Q Well, who was there then -- therewas a group -- question withdrawn.

As I remember it, in your direct testimony, correct me if I am wrong yousaid, Chairman Brothers, Zayd, Tina —

- A Rosemarie.
- Q Rosemarie?
- A Yes.
- Q Rory, Landon had been there?
- A Yes.
- Q When you said, "People from New York had left," which ones had left?
- A Oh, that was only Rosemary, Zayd, Chairman Brothers, Tina, and that was all. Them was all gone, and Zayd.
 - Q And Zayd?
 - A Yes.
- Q So the ones who had left, who had come from New York, were Mr. Rackley, Mr. Landon Williams and Rory Hithe -- and

Alex Rackley, right?

- A Right.
- Q And one of the reasons you came up that Saturday night was to bring some posters and so forth for the Bobby Seale meeting Monday night, wasn't it?
 - A Ho.
 - o no?
 - A No.
- O Do you remember Warren Kimbro going out to the car to get some posters and other stuff from the car?
 - A No.
- Q Do you remember Warren Kimbro and Alex Rackley sitting there rolling posters?
 - A Mo.

THE COURT: Is this a good place to break?

MISS ROWABACK: Just a couple more questions,
your Honor.

THE COURT: All right.

MISS RORABACK: I have to go back.

THE COURT: All right.

BY MISS RORABACK:

- O Do you remember Alex Rackley just sitting there, just talking with the people and sitting onthe living room couch?
 - A The last time I seen him, he was on the couch. I

don't know what he was doing.

- Q Just chatting?
- A Yes.
- O And when was it, exactly, that Landon Williams announced, in your words, as you put it, I believe, let everybody in the house know that Alex Rackley was under suspicion?
- A I think that was -- that was just before I left the house, just before I left, then he told me to go get the reefer, I think.
- Now, you are going back and saying he did say something else. Before you said the first thing he said to you was to go get the reefers?

MR. MARKLE: I object. That doesn't mean nothing was said.

That's being unfair to the witness.

THE COURT: Cross examination.

Let her go.

Go ahead.

BY MISS RORABACK:

- Q Isn't it true, Mr. Aams, --
- A That is true, Miss Roraback.
- Q thatyou said before that --
- A Yes, Ma am.
- Q And nowyou are correcting that?

- A No. You know, he did say "Go get the reefer."
- Q He said, "Go get the reefers"?
- A That's right.

(Page 2050 follows - no omission)

- Q And now you are telling me he told everybody in the house, while Alex Rackley was there, in that living room, that Alex Rackley was under suspicion?
 - A No. He told some people.
 - Q You said he informed everyone in the place?
 - A Yes, right.
- Q Which was six or seven people from New York and seven or eight people from New Haven, all sitting around there; they were all informed, according to you, is that right?
 - A Yes, Ma'am.
 - Q And that was while Alex Rackley was right there, too?
 - A Alex Rackley was in the living room.
 - Q They were all in the living room or kitchen, right?
 - A That's right.
- Q And you expect us to believe that Landon Williams just made that statement in front of Alex Rackley?
 - A No. he didn't.
- Q What did he do, go around and speak to each person and say "Past Past."
 - MR. MARKLE: I'm going to object, if the Court please.
 - It's one thing to make -- your Monor, I'm going to object to this.
 - First of all, she's trying to make him look ridiculous. He didn't say he was in that room, and

she knows it.

MISS RORABACK: He did on my cross-examination, Mr. Markle.

MR. MARKLE: Well, he didn't, your Honor.

THE COURT: The jury has nothing to do but to just sit there and listen and watch, and that's what they are supposed to do.

Go ahead.

BY MISS RORABACK:

- Q But this was said before you went out to get the marijuana?
 - A Yes.
 - Q And you are sure of that?
 - A Yes.
- Q And you are sure that he announced this to everybody in that room?
 - A He announced it to some people, yes.
- Q Well, are we saying everybody heard that now, or just some people?
- A I'm saying everyone eventually was aware of it at that time.
- Q And did Mr. Landon Williams make everyone in that room aware of it at that time?
 - A Yes.
 - Q And how did he do it?

A He informed Brother Warren of this incident, he informed your client of this incident, Lonnie McLucas of the incident, and they informed everyone else, I guess.

- Q Why do you say you guess?
- A Because --
- Q Didn't you say before that Landon Williams was the one that informed them?
 - A Yes.
- Q Are you changing it now and saying that Warren
 Kimbro and Lonnie McLucas and Ericka Huggins informed them?

A No. I didn't -- I said they reformed (sic) the rest of the sisters in the house at that point. Warren Kimbro, I, Rory Hithe and Ericka Huggins was there when Landon was informing us of this incident -- the rest of the people in the house.

- Q Well, did he inform Chairman Brothers?
- A No.
- Q Chairman Brothers was right there in the living room, right?

A I don't think -- Chairman Brothers wasn't with us at that time, no.

- Q What about Zayd?
- A No, none of them was with us.
- Q Was this after they left?
- A No. Ma'am.

- Q Where were they?
- A They was in the living room. Landon called Ericka, Warren and Lonnie, and them, over and we talked to them about the incident.
- Q Was Chairman Brothers ever informed by Landon Williams about this, Mr. Sams?
 - A I guess he was.
 - Q You guess he wes?
 - A Yes.
 - Q Did you hear him?
 - A No, I didn't hear him say it.
 - Q Was Zayd ever informed about this by Landon Williams?
 - A No. I guess he was.
 - Q Did you hear him?
 - A No. Ma'an.
 - Q Was Tine ever informed about this by Landon Williams?
 - A No, Ma'am.
- Q You didn't hear her informed by anybody else either, did you?
 - A No. Ha an.
 - Q Was Rosemary ever informed by Landon Williams?
 - A Yes, Ma'am,
 - Q Did you hear that?
 - A Yes, Ma'am,
 - Q Where was that?







A When I was over the house the night that Landon Williams was talking to them.

Q I am talking now about when she was -- she was there in New Haven.

A No. No. No. She -- no.

Q Was she there?

A Yes.

Q You didn't hear him say it to ber that evening?

A No.

Q Did you hear anybody else tell her?

A No, Ma'am.

Q Rose Smith there that evening?

A I don't know.

Q You don't know?

A No. She could have been.

Q She what?

A She could have been there.

Q Was she?

A I don't know if she was there when we got right there in the house, because, like I said, I left. When I came back --

Q I'm talking about what happened when you were there and Landon Williams was telling you this.

A Oh. I just explained to you that he informed Sister Ericka, Warren Kimbro and Lonnie McLucas of the fact



that Alex was supposed to be an informer and to keep -- if necessary, to check him out, and that's just what I am saying what happened when I left, Miss Roraback.

Q So that you didn't hear him tell everyone, as you said before?

MR. MARKLE: If your Honor please, we have been through this.

MISS RORABACK: I am trying to pin this down.

MR. MARKLE: Well, I object.

MISS RORABACK: I think it's legitimate cross-examination.

THE COURT: Go ahead.

MR. MARKLE: Exception, your Honor.

THE COURT: Exception may be noted.

THE WITNESS: No, Ma'am.

THE COURT: Are you finished in that area, Miss Roraback?

MISS RORABACK: Two more questions, your Honor.

BY MISS RORABACK:

- Q Mr. Sams, do you remember giving a statement to Sergeant DeRosa and Trooper Horse on August 21, 1969, in Hew Haven?
 - A Yes, Ma'am.
- O I show you Pages 8 to 10 of that statement,

 Mr. Sams, and I would like to ask you, in connection with that,

 while you are reading it, my question is going to be, is

 there anything in that statement that Landon Williams ever

 told Ericka Huggins, WarrenKimbro and Lonnie McLucas, that he

 suspected Alex Rackley of being an informer, prior to the time

 that you left for New York City? Or, prior to the time he

 left the premises that evening, I'm sorry.

A No, Ha am.

MR. MARKLE: Well, wait a minute.

I'm going to object, if the Court please.

If he has been handed the same thing I have, I would like to ask him to examine Page 9, on the bottom.

MISS RORABACK: I handed him what you gave me.

MR. MARKLE: He didn't read all those pages.

MISS RORABACK: I said 8 to 10.

MR. MARKLE: There was nothing discussed?

MISS RORABACK: I think the answer stands, your

Honor, and I told Mr. Sams what pages to look at,

Pages 8 to 10.

If Mr. Markle wants to correct it on redirect, he can.

THE COURT: Have you read it, Mr. Sams?
THE WITHESS: Yes, sir.

THE COURT: And your answer?

THE WITNESS: You said to read from 3 to 107
MISS RORABACK: You heard me, Mr. Sams.

THE WITNESS: Well, from 8 to 10, there is something about it, yes. I would be correct.

When I restate it, yes.

THE COURT: The answer is what?

THE WITNESS: Yes.

THE COURT: "Yes"?

THE WITHESS: Yes.

BY MISS RORADACK:

- Q You are changing it now, is that right, Mr. Sams?
- A Yes, Ma*am.

THE COURT: You are claiming there isn't anything there, Miss Roraback?

HISS RORABACK: I will come back to that on Tuesday, your Honor.

THE COURT: All right.

Ladies and gentlemen, we will recess now. I've kept you longer than I intended to.

Emember my admonition. It's a long holiday from now until Tuesday. No broadcasts, either on television or radio, and no news stories and papers or periodicals or magazines or books or anything concerning this case, or any related case, or the Panther Party, or anything even remotely connected with it, including anything about any of the officers or members of that Party, and, of course, no discussions with anyone on the same subject.

Finally, remember, each day we hear something more, so we sit back and listen to it, and watch, and you will get plenty of time to discuss it when everything has been said.

All right, please have a pleasant weekend.
We are supposed to get some good weather for a change.
Enjoy yourselves and have a safe trip home.

You are excused.

(The jury was excused at 4:10 P. M.)

MR. GARRY: Could we have about twenty minutes together, Judge?

THE COURT: All right.

4:30, Mr. Garry?

MR. GARRY: Yes.

MISS RORABACK: One other request I would like to make, your Honor.

We have, as you know, requested a conference of the defendants with Landon Williams and Rory Hithe, and they did have an attorney appointed for them this morning.

Since time is of the essence, as far as we are concerned, and I know that Mr. Withe and Mr. Williams have both expressed a desire to meet with the defendants, I wonder if it might be set up for Monday.

THE COURT: I've got to be in Hartford all day Monday.

If you can arrange it at the jail, -- who is counsel?

MISS RORABACK: Hugh Keefe.

THE COURT: Is it the same counsel for both? HISS RORABACK: Yes.

THE COURT: If you can arrange it with him and the jail people, it's perfectly all right with me.

On Monday, I have to be in Hartford all day.

Otherwise, I will arrange to set it up sometime

before you start your case.

MISS RORABACK: Thank you.

THE COURT: But if you can do it Monday, why, you know, go ahead and do it, it's all right with me.

MISS RORABACK: Thank you, your Honor.

THE COURT: I have no say about it actually.

It's up to Mr. Keefe and the people at the jail.

All right, counsel, have a conference with

your clients until 4:30.

Clear the courtroom, Sheriff.

(The court adjourned at 4:14 P.M.)

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Name Direct Cross Redirect Recross

EXHIBITS FOR THE DEFENSE

DESCRIPTION

DESCRIPTION

DEPENDANT SEALE'S EXHIBIT

Indictment

DEPENDANT HUGGINS EXHIBIT

Indictment

NO. 15681

STATE OF CONNECTICUT

ERICKA HUGGINS

VS.

NO. 15844

STATE OF CONNECTICUT

vs.

BOBBY G. SEALE

SUPERIOR COURT

NEW HAVEN COUNTY

APRIL 27, 1971

SUPERIOR COURT

NEW HAVEN COUNTY

APRIL 27, 1971

Before:

HON. HAROLD M. MULVEY, Judge & Jury (12)

Appearances:

ARNOLD MARKLE

State's Attorney, New Haven County 121 Elm Street New Haven, Connecticut

CATHERINE G. RORABACK 129 Church Street New Haven, Connecticut

> Representing the defendant Ericka Huggins

CHARLES R. GARRY, ESQ. 341 Market Street San Francisco, California

- and -

DAVID ROSEN, ESQ. 865 Chapel Street New Haven, Connecticut

> Representing the defendant Bobby G. Seale

COURT REPORTERS:

Arthur E. Moan, Jr. Walter Rochow David Tilewick

MORNING SESSION

Tuesday, April 27, 1971

(The court opened at 10:07 A.M.)

THE COURT: All set, counsel?

All right. Call the witness.

Now, Mr. Garry, Friday is the day you have to go to California?

MR. GARRY: Yes, but I want to leave Thursday after we finish court.

THE COURT: Yes. Like when, Thursday?

MR. GARRY: Well, I'd like to catch a plane at 6:30 in Kennedy. So, if I leave here around four I think I can make it. Whenever quitting time is.

THE COURT: All right. It will take an hour to get down there, at least.

MR. GARRY: And on Monday I have --

THE COURT: Four, four Friday -- four on Thurs-day?

MR. GARRY: Four on Thursday.

THE COURT: All right.

MR. GARRY: And on Monday I have to be in the Federal Court of Appeals in Bobby Seale's contempt matter for a conference with the Court.

THE COURT: Well, we won't sit on Monday, anyway.

MR. GARRY: Yes.

THE COURT: All right.

THE COURT: Call the jury.

(The jury entered the courtroom at 10:10 A.M.)

THE COURT: Good morning, ladies and gentlemen.

All right. Miss Roraback, you were on cross.

Do you want anything read back, or do you know where you are?

MISS RORABACK: I was going to start a different area, your Honor.

THE COURT: All right.

GEORGE

SAHS.

J R.

having previously been duly sworn, resumed the witness stand and testified further as follows:

CROSS EXAMINATION BY MISS RORABACK:

- Q Good morning, Mr. Sams.
- A Good morning, Miss Roraback.
- Q Mr. Sams, I believe you testified you were arrested up in Canada on August 7th?

MR. MARKLE: I am going to object, if the Court please. That was no part of my direct.

Your Honor precluded me from going be youd that date.

THE COURT: It's true. I think Mr. Garry mentioned it but I don't think anyone permitted counsel to go up to that.

MISS RORABACK: Well, your Honor, that's only to try to pinpoint the date of actual custody.

THE COURT: Well, let it be answered, then.

MR. MARKLE: May T have an exception, your

Honor?

THE COURT: Exception may be noted.
THE WITNESS: Yes.

BY MISS RORABACK:

- Q And that was up in Toronto, Canada?
- A Yes.



- Q And after that time you gave a statement, I believe on August 15th in Toronto, Canada, is that correct?
 - A Yes, Malam.
- Q Was that the first statement that you gave, Mr. Sams, if you remember?
 - A The first written statement, yes. I think so.
- Q You had given some oral statements prior to that time?
- A I had talked to the F.B.I. the first, or second day I got busted.
 - Q I see.

THE COURT: Keep your voice up a little bit, Hr. Sams. It's difficult to hear you.

BY MISS RORABACK:

- Q This was on August 7th or 8th?
- A Yes, Ma am.
- Q But the first written statement was on August 15th?
- A Yes, Ma'am.
- Q And do you know whether or not there were any notes made, or recording made of your conversations with the F.B.I. on August 7th or that period?
 - A No. I don't.
 - Q You've never seen any?
 - A No.
 - Q Now, thereafter, after August 15th, Mr. Sams, you



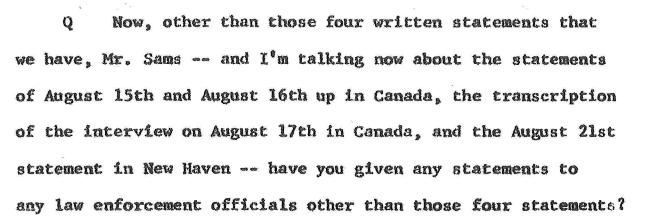
gave another statement on August 16th, is that correct, to Mr. DeRosa?

- A Yes, Ma'am.
- Q And was that the first time you talked with Mr. DeRosa?
 - A Yes, Ma'am.
- Q And that also was in Toronto, Canada, is that correct?
 - A Yes.
- Q And the next day, up there in Canada, you gave an additional statement, which was done on a tape recorder, is that right, some sort of machine and later transcribed; on August 17th?

A No, Ma'am. Just, I just made a statement to Sergeant DeRosa, and I think he taped that that day, or the next day.

- O Well, I'm not trying to confuse you, Mr. Sams. We have been furnished with two separate statements, one is a typed one, dated August 16th, and a transcription of a conversation that occurred, supposedly, in Canada, on August 17th with Sergeant DeRosa, and Mr. Flanagan.
 - A (No response.)
 - Q How, do youknow when you came to New Haven?
- A Oh, it was somewhere around in August; what specific day, no.

- Q And on August 21st, 1969, you gave a statement to Sergeant DeRosa and Trooper Morse in New Haven, is that correct?
 - A Yes, Ma'am.
- Q And between August 17th, the time that youhad this interview with Mr. DeRosa in Canada, Mr. DeRosa and Mr. Flanagan, and August 21st, did you make any other statements?
 - A Well, I had conversation, yes.
 - Q Yes, with whom did you have those conversations?
 - A Sergeant DeRosa.



A No, Ma'am.

Q And you also testified here, I believe, on April 23rd, 1970 in the bail hearing involving Mr. Seale, is that correct?

A Yes, Ma'am.

Q And prior to that time, on April 23rd of 1970, had you testified in any proceeding relating to the events that occurred here in New Haven in May of 1969?

A No, Ma'am.

Q You did not testify in any grand jury proceeding?

A No, Ma'am.

Q And then you testified again --

A Wait, excuse me. You say, "grand jury proceeding"?

Q I said, grand jury.

Q A Yes, yes. I think it was a grand jury proceeding.

Q Where was that?

A I think that was the next day after I had got into New Haven. I went in to see some peoples in a room, and they showed me Bobby Seale's picture and stuff, and asked me, did



I know him.

- Q Was this on August 23rd?
- A I don't remember the day it was.



(Page 2072 follows; no omission.)

- Q The time that you were questioned, was there a court reporter there, Mr. Sams?
 - A I don't know, Miss Roraback.
- Q You don't remember somebody with one of those machines? (Indicating)

A No. There was just a man sitting there asking me a lot of questions.

Q Just one man?

A Everybody -- everyone in the group was, you know, asking me questions, one person asked me a question and another person.

- Q Do you know if that was in this court house?
- A Yes, it was here.
- Q What?
- A It was in this court house, yes.
- Q Now, other than that proceeding, Mr. Sams, did you testify anywhere else concerning the events which allegedly occurred here in New Haven in May of 1969?
 - A No, just the Lonnie McLucas trial.
- Q Mr. Sams, when you began to get ready to testify in this trial, did you review the statements which you had made on August 15th, August 16th, August 17th and August 21st?
- A I reviewed one of my statements. I don't know what date, which statement it was.
 - Q You don't remember which one it was?

- A No, Ma'am. Just a statement. I just read some of the statement.
 - Q Was it a lengthy one or a short one?
 - A Short one.
- Q And I show you these various statements, Mr. Sams, and ask you if that is --

MR. MARKLE: I'm going to object, if the Court please, unless she is going to enter those into evidence.

We are going into a long -THE COURT: Cross-examination.

If she cares to do it this way, -MR. MARKLE: May I have an exception?

BY MISS RORABACK:

Q Showing you the statement of August 15, 1969, Mr. Sams, is that the one that you reviewed before testifying? (Indicating)

THE COURT: Overruled.

- A No, this is not it.
- Q That's not it?
- A No.
- Q How about this one of August 17th, which is a transcription of a tape? (Indicating)
 - A No, this is not it, Miss Roraback.
 - Q And how about this one of August 21st? (Indicating)

- A Yes, this is it.
- Q That's the one that you reviewed?
- A Yes.
- Q But you did not review the statements of August 15th, 16th or 17th?
 - A No.
- Q And did you also review your testimony in the McLucas trial?
 - A Yes, Ma'am.
- Q And when was it that you reviewed this statement of August 21st and the testimony in the McLucas trial?
 - A I reviewed it Friday morning.
 - Q You mean this past Friday morning?
 - A Yes, Ma'am.
- Q And since Friday morning, have you looked at either your statement of August 21, 1969 or your testimony in the McLucas trial?
- A This morning, Mr. Markle was showing me one of my statements -- I think it was that one there -- that was talking about the fact where he was asking me who was in the room at the time, and it was shown inconsistent, where I was trying to explain to you where it was explained in the group to individuals who was there, you know.

MISS RORABACK: Might that be read back, your Honor?



THE COURT: It may be read.

Did you finish, Mr. Sams?

THE WITNESS: Yes.

THE COURT: Read it back, Mr. Reporter.

(The last answer of the witness was read by the court reporter.)

- O Did you go over any other part of that statement, Mr. Sams, with Mr. Markle?
 - A No. Ma'am.
- O Now, Mr. Sams, going back to that Sunday morning at the premises at 365 Orchard Street in New Haven, you said that as you came downstairs that morning, Ericka Huggins was holding a Political Education class?
 - A Yes, Ma am.
- Q I believe you also said that she threw a book at Mr. RAckley?
 - A Yes, Ma am.
 - Q What book was that, Mr. Sams?
 - A That was a military Mao book of Chairman Mao Tze-Tung.
- Q Now, Mr. Sams, I have a book in my hand here. Is it roughly the same size as this book, the one she threw to Mr. RAckley? (Indicating)
 - A (No response.)
 - Q Do you remember?
- A It might be just a little wider just a little bit wider. The Military Mao book is just a little wider than that.
 - Q But it's roughly the same size?
 - A Yes.
 - Ω And about the same weight?



- A Yes, Ma'am.
- Q Does it have a soft cover, in the same manner as this has?
 - A Yes, Haran.

MISS RORABACK: For the record, your Honor,

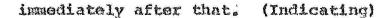
I would submit that this book is approximately
three by six --

MR. MARKLE: All right.

MISS RORABACK: -- and approximately in inch thick, with a soft cover.

MR. MARKLE: Agreed.

- Q Now, Mr. Shms, you remember testifying in the McLucas trial?
 - A Yes, Ma*am.
- O And isn't it true that in that trial you said, Mr. Sams, that she didn't throw the book at Mr. Rackley, she threw it over to him?
 - A No, I don't -- that's not true.
 - Q It's not true?
 - A No.
- Q I show you Page 1283 of the transcript of your testimony in the McLucas trial, Mr. Sams, and the question there the second question from the bottom, or the third question from the bottom of the page, and your answer



- A Yes, that's --
- O Is it true you said at that time that she threw it over to Mr. Rackley, and she did not -- it was not that she threw it at him?
 - A Yes.
 - Q And isn't that what happened, Mr. Sams?
 - A No. She threw the book at him.
- Ω She didn*t just toss it toward him like this?

 (Indicating)
 - A No.
 - Q And you are sure of that?
 - A Yes, Ma'am.
- Q How far away was she from Mr. Rackley when she gave it to him?
- A About from here to where that first witness was. (Indicating)
 - Q Maybe six feet, --
 - A I don't know.
 - Q -- four feet or what?
 - A (No response.)

MISS RORABACK: Four feet, Mr. Harkle?

MR. MARKLE: I didn't see it, but if you say
so, fine.



BY MISS RORABACK:

- Q It was after that that Mr. RAckley began to try to read that book, is that it?
 - A Yes.
- Q And it was you, wasn't it, Mr. Sams, who said to Mr. Rackley, "I thought you couldn't read, Mr. Rackley," or "Brother Alex" or whatever you called him?
 - A Yes.
- Q And it was you who got angry with him because he was sitting there apparently reading, is that right?
 - A Yes.
- O And it was you who first began to give him discipline?
 - A Yes, Ma am.
- Q And it was you and Mr. Kimbro who gave him discipline upstairs in the premises at Orchard Street, is that right?

THE COURT: You mean in the living room?

HISS RORABACK: I am talking about the living room, yes, sir.

THE COURT: "Upstairs" is different.
MISS RORABACK: I'm sorry.

THE WITNESS: Yes.

BY MISS RORABACK:

Q And it was up there in that living room that you

and Mr. Kimbro beat on Mr. RAckley with a stick?

- A Yes, Ma'am.
- And it was up there that, after all that was over, Hr. RAckley was offered a chance to just leave, is that right?
 - A Yes. Ma'am.
- Q And you said that you would give him bus fare to leave New Haven?
 - A Yes, Ma am.
- Q There was a conversation, wasn't there, Hr. Sams, you know, "Where do you want to go if you leave here," and it was because he said he wanted to go to New York, you said, "Well, you will need \$3*?
 - A Yes, Ma am.
 - Q And he actually walked out that door, didn't he?
 - A No. I don't remember him walking out the door.
 - Q You don't remember him walking out the door?
 - A No.
 - Q Were you there all that time, Mr. Sams?
- A I was there. It was -- he had walked up to the door, from the living room to the door, and he was there by the stairs, and there was some talk about a jacket, and I went in the kitchen, and I came back.

MR. GARRY: May I hear that answer, your Honor?
THE COURT: It may be read.

(The last answer of the witness was read by the court reporter.)

- Q At that point, Mr. Sams, did you order Mr. Rackley to go downstairs?
 - A No, not at that point, no.
 - Q Did Mr. Kimbro?
 - A Yes.
 - Q Mr. Kimbro did?

A Mr. Kimbro informed me that he didn't want him to leave the Party. He asked him, did he want to leave, and Alex said no, and Kimbro asked him again, "Do you want to get out of the Black Panther Party?" So I asked Alex, did he know what Party discipline was. He said yes. I asked him, was he willing to take discipline. He said yes. At that time, I told him to go down to the basement.

Q What did you mean by, "Party discipline"?

A Party discipline, if a member commits some kind of wrong against the Party, against, more or less, the people, a Party member is to be punished or he is to be questioned and he is to be disciplined for the necessary type of crime that he commits against the people and, at that time, when the purge was on, the most discipline was mudholes, that was one of the most immediately severe disciplines that a member got for lying to the people or committing a crime against the people or against the Party ideology or philosophy. A mudhole is when a member is moved on and beaten for a crime that he had, perhaps, committed.

- Q As I understand it, you had already moved on Mr. Rackley and had beaten him, is that right?
 - A Yes, Ma'am.
- Q So you wanted to give him a second set of discipline downstairs?
 - A Yes, Ma'am.
- Q Who decided that? Was that decided by you, Mr. Sams?
 - A No, that was decided by all of us.
 - Q Did Mr. Kimbro order him downstairs?
 - A No. I asked him to go downstairs.
 - Q You were in charge, weren't you?
 - A Yes, Ma'am.
- Q And after he went downstairs -- you said he went downstairs with Mr. Kimbro and Mr. McLucas. Did anybody else go down with him right at that time?
 - A George Edwards.
- Q George Edwards. So that Mr. Kimbro, Mr. McLucas and Mr. Edwards were down there with Mr. Rackley?
 - A Yes.

MR. GARRY: Could I have the answer read?

THE COURT: Read it, please.

(The answer of the witness was read by the court reporter.)



BY MISS RORABACK:

- Q When you got down to the basement -- you came down a few minutes later, is that right?
 - A Yes.
 - Q When you got down, where was Mr. Rackley?
 - A He was standing up getting some discipline.
 - Q He was standing up getting some discipline?
 - A Yes.
 - Q At that time, who was there?
- A At that time, it was George Edwards, Warren Kimbro and Lonnie McLucas.
- Q After that, what happened, Mr. Rackley -- I mean, Mr. Sams?

A At that time, I came downstairs, and about three or four seconds after that, Sister Ericka came downstairs, and we began to question Rackley and, at that point, Rackley was tied up. He was disciplined.

- Q Who tied him up?
- A Warren, Lonnie and George Edwards.
- Q Was he tied up with your direction?
- A Yes, Ma'am.
- Q I believe you said that you went upstairs at least one time or perhaps more than once after you had gone down for this discipline of Mr. Rackley, is that right?
 - A Yes.

Sams - cross

- Q How many times did you come upstairs?
- A Just once.
- Q Just once?
- A Yes, Ma'am.
- Q Was it after the discipline was all over?
- A Yes, Ma'am.

- Q At some point, it was you who ordered that some hot water be prepared, is that right?
 - A Yes, Masam.
 - Q And it was your idea to get that hot water, right?
 - A Yes, Ma am.
- You said in your direct testimony, Mr. Sams, that you began to see, "that he was getting beat so bad, he began to get busted up because he got busted in the head with a stick, so I decided at that point, it's a possibility for the cat to die, so I ordered him tied up again and asked to have some hot water brought down."
- A I'm sorry, could you restate that point about him dying?
- Q I am just reading from the testimony. You decided at that point, there was a possibility he might die?
 - A Yes, Ma am.
- Q And that's the reason you ordered the hot water to be brought down?
 - A Yes.
- Q You didn't order him to be released at that point because he was in such bad shape?
 - A No.
 - MR. MARKLE: May I have the page you just read from?

MISS RORABACIT: 1696.

BY MISS ROYABACK:

Q I believe you also testified, Mr. Sams, -- question withdrawn.

Who brought the first bucket of hot water down?

- A Ericka Huggins brought the first, you know, bucket of hot water down.
- Q Do you remember making a statement in Toronto, Canada, on August 16, 1969, Mr. Sams?
 - A Yes, Ma am.
- I show you Page 4 of that statement, Mr. Sams, and ask if you can tell me whether, at that time, you told Sergeant DeRosa that it was Mr. McLucas that you said got the hot water?

MR. MARKLE: I am going to object to that, if the Court please, because it is not the same. It is who brought it down. Her question to him, --

MISS RORABACK: All right. I will amend it.
BY MISS RORABACK:

- Q Didn*t you tell Sergeant DeRosa that it was Mr. McLucas who brought that hot water down?
- A I think Mr. DeRosa asked me who brought the hot water down and the first one I told him is Lonnie brought some hot water down.

MR. MARKLE: I am having difficulty. Maybe the jury is having difficulty in hearing him.

THE COURT: Try to keep your voice up, Mr. Sams.

THE WITNESS: I answered that Mr. McLucas had brought some water down.

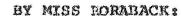
BY MISS RORABACK:

- Q And this was on August 16, 1969?
- A Yes, Ma'am.
- Q And, actually, isn't it true, Mr. Sams, that Ericka Huggins wasn't in that basement when that hot water was brought down?
 - A No, Ma'am, it's not true.
 - Q Your memory is that she was?
 - A Yes, Ma'am.
- Q It was after that hot water was used on Mr. Rackley by you that you decided to make a tape recording, is that correct?
- A The tape was talked about being made before then, Miss Roraback.

MR. MARKLE: May I have that read. It's hard to hear the witness, your Honor.

THE COURT: Keep your voice up, Mr. Sams. Would you read that.

(The answer of the witness was read by the court reporter.)



- Q Were you the one who decided when the tape would be made?
 - A No. Ma am.
 - Q Who decided?
- A I think that the tape was made -- the tape was being made off and on there during the time that Rackley was being disciplining.
 - Q Being made off and on?
- A Yes, Ma'am. Sometimes he became inconsistent to what he had said before about certain people, and during the time he was making the tape, it was cut off and on.
 - Q Hr. Sams, having you heard this tape?
- A I heard it after it was made. I haven't heard it lately, no.

MR. GARRY: I want to hear that answer -- question and answer.

THE COURT: It may be read.

(The last question by Miss Roraback and the answer of the witness were read by the court reporter.)

- Q You said after it was made. Are you referring to May of 1969?
 - A Yes, Ma am.

- Q And have you heard it any time since May of 1969?
- A No, Ma'an.
- Q And have you seen any transcription of that tape since May of 1969?
 - A No. Malam.
- Q And have you read anything about that tape since May of 1969?
 - A No, Ma'an.
 - Q How did the tape begin, Mr. Sams?
- A Warren Kimbro and Ericka Huggins hooked up the tape and the tape began to be made by Ericka, I and Warren as giving Alex some discipline, I believe.
- Q Isn't it true, Mr. Sams, that you made certain suggestions of the things that Ericka Huggins should say?
 - A No, Ma am.
 - Q You sure of that?
 - A Yes, Ma am.

THE COURT: The jury may retire for a moment. (The jury was excused at 10:45 A. M.)

(The jury entered the courtroom at 10:45 A.M.)

THE COURT: All right, Miss Roraback?

MISS RORABACK: Might the last two questions

be read?

(The court reporter complied.)

BY MISS RORABACK:

Q Mr. Sams, you remember Mr. Kimbro making any suggestions of what Ericka Huggins should say?

A No. Ma'am.

Q And do you remember Ericka Huggins saying after the discipline -- after the Ten Point Program was read there was more discipline, and then a voice identified as yours says, "He said that he lied about it, he could read." Are you telling me that that was not your voice?

MR. MARKLE: Your Honor --

A No.

MR. MARKLE: I'm going to object.

A I don't --

MR. MARKLE: How would be know?

- A I don't -- I don't recall that at all, Miss Roraback.
- Q You don't remember saying that?
- A No, Ma'am.
- Q Do you remember Ericka Huggins saying, "We found out that he is an informer," and you saying, "He's not an informer, he knows all the informers"?

- A Yes, yes, Ma'am.
- Q You do remember saying that?
- A Yes, Ma'am.
- Q And then she changed and said, "oh, he knows all the informers?"
 - A Yes, Malam.
- Q And do you remember Ericka Huggins asking you,
 "Shall I relate those names?" and you saying, "No, he'll relate them to us."
 - A No. Matam.
- Q You don't remember that. Mr. Sams, while you were down there in that basement and asking these questions, and directing the discipline of Mr. Rackley, did you think he was an informer?
 - A No, Ma'am.
 - Q Did you at any time think he was an informer?
 - A At one time, yes.
 - Q And when was that?
- A Oh, this is when he was asleep upstairs and Sister Ericka woke him up --
 - Q This was after --
 - A No --
 - Q -- after the time at the basement or earlier?
 - A It was earlier.
 - Q I'm sorry.



- A And --
- Q You mean, in the living room?
- A Yes.

MR. MARKLE: I'm going to object. Let him finish.

MISS RORABACK: I'm trying to pin it down, where he meant by "upstairs."

THE COURT: Go ahead, counsel.

- A And he got the book, and he was reading.
- Q I see.

A And I looked at him because many members in New York Chapter had been disciplined by Brother Landon and I for not teaching the brother how to read, and not spending the proper time in teaching him how to read. And I seen him acting as though he knew how to read, so I thought something was wrong with him there for real. And I come to find out, he was just acting.

- Q You thought he might be an informer at that point?
- A Yes, Ma'am.
- Q And when did you find out that he was just acting, as you put it?
 - A When he was trying to read the Ten Point Program.

(Page 2093 follows; no omission.)

- Q This was downstairs?
- A Upstairs.
- Q In the basement?
- A Upstairs.
- Q This was before you went to the basement then?
- A That's right, when he was trying to read the Ten Point Program.
- Q So that at no time when you had Mr. Rackley down in the basement, giving him discipline, did you think he was an informer, is that right?
 - A No. Ma'am.
- Q And, in fact, you told the others down there that he wasn't an informer, is that right?
 - A No, Ma'am.
 - Q Didn't you say that you said this to Ericka Huggins?
 - A Oh, yes. At that point, yes.
- Q And you were the one who ordered the hot water, right?
 - A Yes, Ma^{*}am.
 - Q You were the one who ordered him tied up?
 - A Yes, Ma'am.
- Q And you were the one who actually threw the hot water on him, weren't you?
 - A Yes, Ma'am.
 - Q And you did that after you thought he might die?

- A From the severe blows, yes.
- Q Had you ever used hot water in disciplining any other Party member, Mr. Sams?
 - A No. Ma'am.
- Q But you had beaten other Party members, is that right?
 - A Yes, Ma'am.
 - Q And you disciplined someone named Tanaka?

MR. MARKLE: I'm going to object, if the Court please. Now, it's no part of my --

THE COURT: Read it back.

(The court reporter complied.)

A Yes, Ma'am.

THE COURT: Oh -- all right. I'll overrule the objection.

MR. MARKLE: May I have an exception, your Honor?

THE COURT: Exception may be noted.

- Q And did you use hot water on Mr. Tanaka?
- A Used worser than hot water on Tanaka.
- Q You tried to kill him, didn't you?
- A No, Ma'am.
- Q You're sure of that?
- A Yes, Ma'am.
- Q You were in charge of that one, weren't you?

- A No, Ma'am.
- Q You were not?
- A They --

THE COURT: Wait, wait, there's no question pending. The answer is in.

- Q You disciplined Loretta Luckes?
- A No, Ma'am.
- Q You did not?
- A No. Ma'am.
- Q Did you discipline Rose Smith?
- A Yes, Ma'am.
- Q Did you throw hot water at her?
- A No, Matam.
- Q Now, Mr. Sams, I believe you testified that after you'd completed the interrogation of Mr. Rackley, that George Edwards was tied up, is that right?
 - A Yes, Ma'am.
 - Q And that he was questioned?
 - A Yes, Ma'am.
 - Q And then he was released?
 - A Yes, Ma'am.
- Q And you just asked him to make a tape, himself, is that right?
 - A Yes, Ma'am.
 - Q Did he make that tape, Mr. Sams?

- A Yes, Ma'am, he did.
- Q He did? And where did he make that tape, do you remember?
 - A Upstairs, Warren Kimbro's bedroom.
 - Q Did you ever hear that tape?
 - A Yes, Matam.
 - Q Do you know when that was made?
- A That was made the same night that there was an attempt to interrogate him.
- Q You had, I believe, gone to Hartford that night, is that right?
 - A Bartford?
 - Q Did you go to Hartford?
 - A Yes, Ma'so.
 - Q You did?
 - A Yes, Ma'am.
- Q And was that tape made by Mr. Edwards before or after going to Hartford?
 - A It was before.
 - Q Then he gave the tape to you?
 - A No, he gave the tape to Landon Williams.
- Q Mr. Sams, Landon Williams wasn't at the house when this interrogation of Mr. Rackley occurred, was he?
 - A No, Ma'am.
 - Q And do you know approximately when the questioning

of Mr. Rackley and Mr. Wards was finished?

- A Around about 10:00 that morning.
- Q 10:00 that morning?
- A Yes, Ma'am, 10:00 or 12:00 that morning.

 MISS RORABACK: I'm sorry, may that be read?

 (The court reporter complied.)
- Q And when did you leave for Hartford?
- A Around about 2:00 o'clock, I believe; 2:00 or 2:30.
- Q Incidentally, can you tell me roughly when it was that Landon Williams left the premises at Orchard Street on the evening of -- at the evening before that, that is, Saturday night?
 - A No, Ma'am.
 - Q Well, was it about midnight or later?
 - A Yes, around that time.
 - Q And he went to New York, did he?
 - A I think that's where he went.
- Q And when did Landon Williams come back from New York?
 - A About 12:30-1:00 o'clock, I believe.



- Q And at that point, Mr. Rackley was upstairs, is that right?
 - A Yes, Ma'am.
- Q And who else was present upstairs -- question withdrawn. I'm sorry.

Who came back with Mr. Williams?

- A Rory Hithe.
- Q And when did Mr. Williams question withdrawn.

When was Mr. Williams informed about the questioning of Mr. Edwards?

A That was about later on. It was about twenty minutes after he had got there, we was downstairs hearing the tape, Kimbro informed him.

- O He was downstairs --
- A Listening to the tape in the basement.
- Q In the basement?
- A Yes, and Kimbro informed him.
- Q Well, I'm not asking that. I said when.
- A Downstairs --

THE COURT: I think he is trying to explain, Hiss Roraback, when it was.

MISS RORABACK: He began to talk about a conversation, which I hadn't asked him, I believe, your Honor.

THE COURT: She wants to know when it was.





THE WITNESS: It was downstairs during the time the tape recording was being heard.

- Q And this is when Landon Williams and Rory Hithe heard the tapes downstairs?
 - A That's right.
- Q And that was the tapes of the questioning of Mr. Rackley?
 - A Yes.
- Ω And Ericka Huggins was not downstairs there, is that right?
 - A No. Ma am.
- O Incidentally, Mr. Sams, it's true, is it not, that in your statements to the F.B.I. on August 15th, to Sergeant DeRosa on August 16th and 17th in Canada, and to Sergeant DeRosa on August 21st in New Haven, all in 1969, you made no mention of this questioning of Mr. Edwards, is that right?
 - A Yes, that's true. I made no --
- Q And the first time you ever mentioned this questioning of Mr. Edwards was in your testimony in the McLucas trial, is that right?
- A I think that was made in my statement before that, Miss Roraback.
 - Q Made in a statement before then?
 - A Yes, Ma'am, I think so.

- Q Do you remember when?
- A I guess it was somewhere around when I got to Hew Haven.
 - Q August 21, 1969?
 - A Yes, Ma'am, I think so.
- Q Well, I show you your statement of August 21, 1969, and ask you if you can show me any place in that statement where you mention anything about the questioning of Mr. Edwards? (Indicating)
- A No, I don't see it in this statement here, Miss Roraback.
- Q And you say that Mr. Edwards gave those tapes to Landon Williams?
 - A Yes, Ma'am.
 - Q Was he downstairs in the basement with you?
 - A Yes, Ma am.
- Q Was he downstairs in the basement with you listening to the other tapes?

THE COURT: Who is "he"?

MISS RORABACK: I'm talking about George Edwards.

THE WITNESS: No, not at the time. No.

- When didhe give them to Landon Williams?
- A He gave them to him when Landon came back from



upstairs from listening to the tapes; Landon asked him about the tapes, and he gave them up.

- O So he was around that Sunday afternoon, is that right?
 - A Yes. Ma'am.
 - Q And then it was after that that you went to Hartford?
 - A Yes, Ma am.
 - Q And was Mr. Edwards left at that house?
 - A Yes, Ma'am.
- Q And, in fact, he was there the next evening, too, wasn't he, when everybody else went off to hear Bobby Seale?
 - A No, Ma'am. George disappeared.
 - Q He was not there on Monday evening?
 - A No, Ma'am.
- Q Do you remember sending him over to Mr. Seale's speech with Peggy Hudgins to deliver a message?
 - A Oh, yes, that's right.
 - Q So he was there, wasn't he?
 - A Yes, Ma'am.
- Q And that was the day after this had happened, is that right?
 - A Yes, Ma'am.



- Q Mr. Sams, the other day when you were testifying on your direct examination, you said that after Alex Rackley was taken upstairs, that you had gone up to the bedroom with Warren Kimbro, Lonnie McLucas, Ericka Huggins, and that Rory Hithe and Landon Williams were there, too, and this is back on Sunday?
 - A No, I don't recall it that say, Miss Roraback.
 - Q When did the conversation -- I'm sorry.

When did the conversation occur about whether or not Mr. Rackley should be taken to the hospital?

- A That was about 12:00 -- somewhere around there.
- Q About 12:00 noon, before you went to Hartford?
- A Yes, Ma'am.
- Q And you are saying that Rory Hithe, Landon Williams, Ericka Huggins, Warren Kimbro, Lonnie McLucas and you were up there in that bedroom with Alex Rackley, is that right, --
 - A No, not at that time.
 - Q -- about 12:00?
 - A Not at that time, no.
 - Q I see. Where did that conversation take place?
- A It took place upstairs in the bedroom. Warren Kimbro and I, and about the fact that Alex was blowing up.
 - Q Who else was there, Mr. Sams?
 - A Pardon?
 - Q Who else was there?

- A Lonnie McLucas, I and Warren Kimbro.
- Q Just the three of you?
- A Yes, Ma'am.
- Q And Ericka Huggins was not present there?
- A No at that time, no.
- Q Do you remember testifying on your direct examination that Ericka Huggins was present at that time?
 - A Yes, Ma'am.
 - Q But that was incorrect?
- A No, Ma'am. She came in -- she was -- at that moment, she came in with Landon and Rory Hithe. They came in.
 - Q So she came up there with Landon and Rory?
 - A Yes, Ma'am.
 - Q And that was about 12:00 noon on that Sunday?
 - A Yes, Ma[†]am,
- Q Mr. Sams, describing what occurred upstairs on that Sunday, in your statements of August 15th, August 16th, August 17th and August 21st of 1969, it's true, is it not, that you never made any mention of Ericka Huggins being present?
 - A It's possible, yes.
- Q And it's true, is it not, that you made no mention of Ericka Huggins being present in any of your testimony in the McLucas trial?
 - A No, Ma'am.
 - Q It's not true?

- A No. Ma'am.
- Q Mr. Sams, I ask you to look at the transcript of your testimony in the McLucas trial, direct examination, Page 1185 -- well, I believe 1185, you may want to go on to 1186, and tell me if, in your testimony at that time, describing that conversation, you made any mention of Ericka Huggins being present? (Indicating)
 - A No, Ma'am,
 - Q You did not, is that correct?
 - A That's right.
- Q Now, Mr. Sams, directing your attention to the Tuesday that week in May, May 20, or the early morning hours of May 21st of 1969, were you upstairs when Alex Rackley was dressed?
 - A Yes, Ma[®]am.
 - Q And can you tell me how he was dressed?
 - A Yes. He had overalls on --

MR. GARRY: I can't hear him, your Honor.

THE WITNESS: He had overalls on, he was all taped up, he had tape from behind his back, he had a wire hanging around his neck, he was bare feeted.

MR. GARRY: May I have that read back, your Honor?

THE COURT: Have you finished, Mr. Sams?
THE WITNESS: Yes.

THE COURT: Have you finished your answer?

THE WITNESS: Yes.

THE COURT: All right, read it back, Mr. Reporter.

(The last answer of the witness was read by the court reporter.)

- O Do you remember telling Sergeant DeRosa, in your statement of August 16, 1969, in Toronto, Canada, that Mr. Rackley had boots on?
 - A Yes, Ma'am.
- Q And do you remember telling Sergeant DeRosa, in your statement to him here in New Haven, on August 21, 1969, that some boots were gotten for him by Brother Landon?
 - A Yas, Ma am.
- Q And do you remember testifying in the McLucas trial, on August 6, 1970 -- I'm sorry, on August 7th, I believe, 1970, -- back to August 6, 1970, on your direct examination, that he had some boots on?
 - A Yes, Ma am.
- But now you say that he didn't have, he was barefooted, or whatever the word was?
- A Miss Roraback, you asked me about upstairs, and after he came downstairs, someone else gave him a jacket and some boots.
 - ? They gave him boots downstairs?
 - A You asked me about upstairs.
- Q So he had boots on when he left the house, is that right?
 - A That's right.
 - Q And he had sort of a hanger around his neck, tape

on his back, on his chest?

- A Yes, Ma'am.
- Q That tape, that was on his back and his chest, was covered over by a jacket, isn't that true?
 - A Yes, Ma'am.
 - Q And was there anything in his mouth?
 - A Tape. His mouth was taped up and gagged.
 - Q He was gagged?
 - A Yes, Ma'am.
- O Do you remember saying to Sergeant DeRosa, on August 21, 1969, in your statement to him that day, that you weren't sure whether he was gagged, "I think that he was ungagged"?
 - A Yes, I remember. Yes.
- Q But now you say he had his mouth taped over and he was gagged?
 - A Yes, Ma'am,
- Q And you claim that you remember better now whether he had a gag in his mouth than you did in August of 1969?
- A Not exactly. I just didn't have no real trust for DeRosa, or anyone else, at that time, you know.
 - Q Hone of these statements were worth anything?
 - A Ma am?
- O None of these statements you made at that time were worth anything?



- A It was worth the truth, that's all I'm concerned with.
 - Q The truth?
 - A Yes.
- Q Didn't you say you thought he was ungagged?

 I'm talking about Hr. Rackley.
 - A Yes.
 - Q At the time he left those premises?
 - A Yes, Ma am.
 - Q And that was the truth at that time, right?
 - A Yes, Ma am.
- Q But you are claiming now your memory is better than it was in August of 1969?
 - A Yes.

MR. MARKLE: Object, if the Court please.

He answered it already.

THE COURT: Let it stand.

MR. GARRY: May I hear that last question and answer, your Honor?

THE COURT: It may be read.

(The last question by Miss Roraback of the witness, and the answer of the witness, were read by the court reporter.)

THE COURT: Well, to clear the record, I will overrule the objection, and the answer may stand.



I think we will take our morning recess now.

You may retire, ladies and gentlemen.

Prepare to recess.

Recess.

(The court recessed at 11:30 A. M.)

(The court reconvened at 11:45 A.M.)

THE COURT: Bring in the witness.

(The witness resumed the stand.)

THE COURT: Call the jury, Mr. Sheriff.

(The jury entered the courtroom at 11:46 A.M.)

THE COURT: All right, Miss Roraback.

MISS RORABACK: Might the last question and answer be read.

THE COURT: It may be read.

(The last question by Miss Roraback and the answer of the witness were read by the court reporter.

BY MISS RORABACK:

Q Mr. Sams, when you first came to New Haven on May

17, 1969, that Saturday evening, the purpose of your coming

up was to get the thing set up for Mr. Seale's speech at Yale,

was it not?

MR. MARKLE: I will object. We were through this yesterday.

THE COURT: I will let it be answered.

Overruled.

MR. MARKLE: Might I have an exception, your Honor.

THE COURT: Exception may be noted.

A At that time, we was just told we was going to do some party work, yes.



Q And you also said, did you not, at one time in a statement to the FBI that the reason for coming up -- I'm sorry -- your statement of August 16th, that the reason for coming up was to get the place ready for Bobby Seale's speech at Yale on the 19th, correct?

MR. MARKLE: Might I have the page number that she is referring to?

MISS RORABACK: I am talking about Page 2 of the statement of August 16, 1969, by Mr. DeRosa.

THE COURT: Do you want the question read?
THE WITNESS: Yes.

THE COURT: The question may now be read.

(The last question by Miss Roraback was read by the court reporter.)

- A Yes, I think so.
- Q Now, that next day, May 18th, that Sunday, was when this interrogation of Mr. Rackley began, is that right?
 - A Yes, Ma'am,
- Q And, incidentally, had you ever met Ericka Huggins before you met her in New Haven?
 - A No, Ma'am.
- Q And how many times had she seen you before that May 18th date, that you know?
 - A I don't know.
 - Q Well, you had been up once before, a week or so

previously. You had seen her then?

A Yes.

Q Now, on this prior occasion when you saw her, Landon Williams was present as well?

A Yes.

Q And on the evening before when Mr. Rackley first arrived, Landon Williams was present then, too, is that right?

A Yes.

Q Now, that morning, Mr. Sams, you had -- I am talking now about the morning of May 18th -- you had that .45 gun in your possession, didn't you?

A No. Ma'am.

Q You did not?

A No. Ma'am.

Q Was it there in the house?

A Yes, Matam.

Q Do you know where it was?

A The gun went off. It was up in Warren Kimbro's room.

Q The gun went off in Warren Kimbro's room?

A Yes.

Q Did it go off when you had it in your hands?

A No.

Q Who was there?

A Warren Kimbro, I, Lonnie McLucas. I don't know if your client was there at that time.

- Q This gun went off. That was that Sunday morning, is that right?
 - A Yes.
 - Q What happened to the gun after that?
 - A It was broken down.
 - Q You say, "broken down." Is that sort of taken apert?
 - A Yea.
 - Q Did you take it apart?
 - A Yes.
 - Q And did you put it together again?
 - A Yes, Ma'am.
 - Q What did you do with it after that?
 - A Gave it back to Warren Kimbro.
 - Q That was all upstairs?
 - A Yes.
 - Q We are talking about one of the bedrooms upstairs?
 - A The gun went off upstairs.
- Q When you talk about upstairs, the living room or the bedroom?
- A The bedroom of Warren Kimbro's house. The gun went off. I brought it down, broke it down, put it back together. I gave it back to Warren Kimbro, and Warren took it back and put it in his dresser.

MR. GARRY: May I have that read back?

THE COURT: It may be read back.

(The answer of the witness was read by the court reporter.)

BY MISS RORABACK:

- Q And you are sure that was on Sunday?
- A Yes, Ma'am.
- Q Would it surprise you to know that Warren Kimbro remembered that as happening on Friday?
 - A What?
- Q Would it surprise you to know that Warren Kimbro remembered that as happening on Friday?

A No.

MR. GARRY: May I have the question and answer read back?

THE COURT: It may be read.

(The last question by Miss Roraback and the answer of the witness were read by the court reporter.)

BY MISS RORABACK:

- Q Well, did you have that .45 tucked in your belt or on your person in any way at any time on Sunday, May 18th?
 - A Yes, later on that night, Sunday night, yes.
 - Q Later on on Sunday night?
 - A Yes.
 - And how were you carrying it around at that time?
 - A I had the gun concealed in my leather jacket.
- Q How about having it stuck in your belt of your pants?
 - A Nobody knew I had that gun at that time.
- 2 I am asking you if you ever wore it around on May 18, 1969, tucked into your belt of your pants?
 - A Yes, inside,
- O Did you say that you -- question withdrawn.

 You said that you stocked some marijuana on
 Saturday?
 - A Ma'am?
- Q You said you smoked some marijuana on Saturday night?
 - A Yes.
 - Q And didyou smoke some on Sunday morning?
 - A No.
- Q You did not. And, so, when all of this happened in the living room and downstairs with Mr. Rackley, you were

sober?

A Yes, Ma am.

Q And you did all of that without any influence of any sort of drugs?

A I don't know what you call, "without any influence."

I'm not a doctor. I don't know if drugs was in my body or

not.

MR. GARRY: May I hear the question and the answer.

THE COUNT: The question and answer may be read.

(The last question by Miss Poraback and the answer of the witness were read by the court reporter.)

BY MISS RORABACK:

- O Let me ask you this, Mr. Sams: Did you lose your temper on that Sunday morning?
 - A Sometime, yes.
- Q And when you were beating on Mr. Rackley, had you lost your temper then?
 - A Ho.
- Q And when you were pouring hot water on Mr. Rackley, had you lost your temper them?
 - A 10.
 - Q And you were just doing it in a sort of quiet,

methodical way?

- A I don't know what you mean by, "methodical."
- When you hit him, you weren't angry or anything; you just hit him?
 - A No, I was doing what I had to do.
- Q And you pounded him first with a stick and when with your lists, right?

MR. MARKLE: I will object. We have been through all of this. He said he was doing what he had to do.

THE COURT: I will let it stand.

THE WITHESS: I hit him with the stick down in the basement.

BY MISS MORABACK:

- O When you hit him with a stick upstairs, were you angry?
 - A Ho, I wasn't angry.

MR. GARRY: I didn't get that answer, your Honor.

THE COURT: It may be read.

Read the question, too.

(The last question by Miss Roraback and the answer of the witness were read by the court reporter.)

BY HISS RORABACK:

Q And when you hit him downstairs, Mr. Sams, were you

angry then?

- A No.
- Q Were you talking as quietly as you are talking now?
 - A No.
 - Q And you raised your voice at him, didn't you?
 - A Once in a while, yes.
- Q And when you questioned him, you questioned him in a pretty loud voice, didn't you?
 - A No.
 - Q You did not?
 - A No.
 - Q Was it just like you are talking now?
 - A little louder. About normal about now.
- Q You talked about the same speed or were you talking faster?
 - A I'm normally loud.
 - Q What about speed, was it fast?
 - A Yes.
- Q You were talking much faster than you are talking now, weren't you?
 - A Yes.
 - Q And you were pratty excited, weren't you, Mr. Sams?
 - A Ho.
 - Q You were not?

- A (No response.)
- O When you ordered Mr. Rackley tied up, were you angry?
 - A No.
 - Q Were you excited?
 - A NO.
- ? You just did this sort of in a manner of course sort of way?
- A After a while, you get used to it, where it is orders where you follow them, so I followed them.
 - Q Whose orders were you following down there?
- A I was following Landon Williams' orders and the orders from National that he had.
 - Q Landon Williams wasn't down there, was he?
 - A No.
- O When you poured that hot water on Mr. Rackley -- question withdrawn.

Did you begin to perspire down there?

MR. MARKE: I object.

Where are we going?

THE COURT: I will let it stand.

THE WITNESS: No.

BY MISS RORABACK:

Q When you throw the hot water at Mr. Rackley, did you begin to perspire them?



- A Ho.
- Q Did you get at all excited then?
- A Ho.
- Q You just eat there and sort of said, okay, now, we'll pour some water?
 - A No.
 - Q You didn't say it; you just did it, right?
 - A Right.
- Q And you just did it without being at all excited or angry or upset?
- A Well, I don't know what you mean by, "angry or upset." I did it because I had to do it, you know.
 - O You had to do it?
 - A Yes.
 - Q Who told you, you had to do it?
- A When you are interrogating an individual, any means necessary to take that interrogation. That wasn't the first time I interrogated one in the Party, so I knew what the normal procedures was. If he suspected to be an informer, you interrogate him. That's what I had to do. The procedures that I took, you know, I had to take them.
 - O You never used hot water before?
 - A I used worser things.
 - Q You used worser things?
 - A Yes.



- Q And you did it in the same quiet, methodical manner of doing it?
 - A I don't know what you mean by, "wethodical."
 - O You never raised your voice?
 - A I didn't scream and go raving mad at him.
 - Q Did you get somewhat mad at him?
- A I mean just like the fact that he put himself in that position, yes.
- Q You mean you were angry with Mr. Sams for being in the position of -- I mean Mr. Rackley -- for having to be interrogated?

MR. MARKLE: If your Honor please, I am going to object.

THE COURT: Do you understand the question?
THE WITNESS: No.

THE COURT: I will overrule the objection.
The question may be read.

(The last question by Miss Roraback was read by the court reporter.)

A Yes.

Q During all this period of time you never perspired at all?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: You've asked that already, Miss Roraback. And the answer is in. I'll sustain the objection.

BY MISS RORABACK:

- Q Ericka Huggins had never really seen you in a situation like that before, is that right?
 - A Yes.
 - Q Where?
 - A Upstairs.
- Q But before that Sunday, May 18th, she never seen you interrogate anyone?
 - A No.
 - Q She'd never seen you pour boiling water on anyone?
 - A No.
 - Q She'd never seen you help to tie up somebody?
 - A No.
- Q And, in fact, she'd never seen you so treat a human being that he ended up almost dead, as you put it?
 - A Oh, she seen that before.
 - Q Where?

- A Out in California,
- Q She saw you do that before, Mr. Sama?
- A No, she haven't seen me, no.
- Q You do, on occasion, lose your temper, don't you, Mr. Sams?
 - A Yes.
 - Q You lost your temper just recently up at the jail?

 MR. MARKLE: I'm going to object.

THE COURT: Sustained. Take an exception.

MISS RORABACK: Exception.

NR. GARRY: May I have that question read?

(The court reporter complied.)

Q Isn't it fair to say, Mr. Sams, that when you lose your temper you beat up people?

MR. MARKLE: I'm going to object to that, if the Court please.

THE COURT: I'll let it stand. I'll overrule it.

MR. MARKLE: At any time, your Honor? Are we on the relevant dates, or not?

THE COURT: I'll overrule the objection. Take an exception.

MR. MARKLE: Exception.

THE WITNESS: Restate that, please?

THE COURT: Read it.

(The court reporter complied.)

A No.

BY MISS RORABACK:

Q Well, when you lose your temper do you hit people?

NR. MARKLE: I'm going to object, if the Court please.

THE COURT: Sustained.

MISS RORABACK: Exception, your Honor.

THE COURT: Exception may be noted.

BY MISS RORABACK:

Q Have you ever hit anybody when you were angry?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

MISS RORABACK: Exception, your Honor.

THE COURT: Exception may be noted.

BY MISS RORABACK:

Q Mr. Sams, when you get angry, do you remember what you have done?

MR. MARKLE: Objection, your Monor.

THE COURT: Overruled.

A Yes.

Q You do? Do you ever lose your temper so much that you forget what happened?

MR. MARKLE: I'm going to object.

THE COURT: Sustained.

MISS RORABACK: Exception.

THE COURT: Exception noted.

BY MISS RORABACK:

Q You know a woman named Linda Young in Washington, D.C.?

MR. MARKLE: Object, if the Court please.

THE COURT: It may be answered "Yes" or "No."

A No.

Q You do not? Do you know someone named -- a young lady named Ukali Kapenda in Washington, D.C.?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: It may be answered "Yes" or "No."

A No.

Q Never hit, or beaten up a woman named Ukali Kapenda?

MR. MARKLE: I object.

THE COURT: Sustained.

MISS RORABACK: Exception.

THE COURT: Exception noted.

BY MISS RORABACK:

Q Have you ever hit any woman?

MR. MARKLE: Objection, your Honor.

THE COURT: Sustained.

MISS RORABACK: Exception, your Honor.

THE COURT: Exception may be noted.

BY MISS RORABACK:

- Q Did you, at 365 Orchard Street, during the period of May 18th to May 21st, bit Rose Smith?
 - A Yes.
- Q In fact, you hit her in the stomach, did you not, Mr. Sams?
 - A No.
 - Q You did not? Where did you hit her?
 - A I slapped Rose Smith.
 - Q You slapped her?
 - A Yes.
 - Q Did you slap Loretta Luckes?
 - A No.
 - Q No? When you slapped Rose Smith, were you angry?

 MR. MARKLE: I'm going to object, if the

 Court please. What's the relevance of that?

THE COURT: Sustained.

MISS RORABACK: Exception.

THE COURT: Exception may be noted.

BY MISS RORABACK:

- Q Did you threaten any of the other sisters at 365 Orchard Street from the period of May 17th to May 25th, 1969?
 - A No, Matam.
- Q You did not? Were you carrying a gun around at that time?

- A No. Ma'am.
- Q Did you order them to do things for you?
- A No, Ma'am.
- Q Would it surprise you to know that Maude Francis said you ordered her to go to bed with Mr. Rackley?

MR. MARKLE: I'm going to object, if the Court please.

THE COURT: Sustained.

MISS RORABACK: Exception.

THE COURT: Exception may be noted.

BY MISS RORABACK:

Q By the way, Mr. Sams, when you gave your statement to the FBI in Toronto on August 15th, 1969, you did not state at that time that Ericke Huggins told Maude Francis to try to seduce Mr. Rackley, did you?

A No, Ma'am.

- Q And when you gave your statement to Sergeant DeRosa on August 16th, 1969, up there in Toronto, you made no reference to that conversation, about Maude Francis trying to seduce Alex Rackley, did you?
 - A Later on, yes.
 - Q In the August 16th statement you did?
 - A Yes, I think so.
- Q I show you that statement, Mr. Sams, and ask you if you can tell me where it is? (Handing to the witness.)

I'm now referring to the statement of August 16th, 1969. I think that's the end of that one -- I'm sorry.

- A No, it's not in that statement.
- Q And in your statement of August 21st, 1969, you made no reference to Ericka Huggins having any conversation with Maude Francis about that, did you?
 - A Yes, Ma am, I think so.
- Q You said that Ericka Huggins had told Maude Francis
 to do this?
- A I don't know if I say "Ericka Huggins." I probably say "Sister Ericka," or something like that.
- Q I'll show you your statement of August 21st, 1969, Mr. Rackley --

MR. MARKLE: Mr. Sams.

Q -- Mr. Sams, I show you your statement of August 21, 1969, Mr. Sams, and specifically Page 13 of that statement. (Handing to the witness) It's true, is it not, that there's no reference to Ericka Huggins in that statement relative to that conversation?

MR. MARKLE: I'm going to object, if the Court please, unless it's shown that it's asked. This is the whole thing with these statements.

THE COURT: Take it up on redirect.

MR. MARKLE: All right, might I have an exception.

THE COURT: Exception may be noted.

A No.

Q There is no reference to Ericka Muggins, is that correct?

A No, not that name, no.

Q And it is true, is it not, Mr. Rackley -- Mr. Sams, that the first time there's any reference to Ericka Huggins in relationship to this conversation in any of your statements or testimony, was when you testified in the McLucas trial in August of 1970, approximately fourteen or fifteen months after this conversation took place?

A Yes, it's possible.

Q Mr. Sams, you also talked about a conversation which occurred, you said, in an automobile, I believe it's on that Tuesday, May 20th, between yourself, Landon Williams, Rory Hithe, and Ericka Huggins; do you remember that testimony?

A Yes, Ma'am.

Q It's true, is it not, Mr. Rackley, that there is no mention of that conversation --

THE COURT: Mr. Sams.

MISS RORABACK: I'm sorry.

Q -- Mr. Sams, there's no mention of that conversation in your statement of August 15th, 1969?

A Yes, it's true.

Q It's true, is it not, that there's no mention of

that conversation in your statement of August 16th, 1969?

A Yes.

Q It's true, is it not, that there's no mention of that statement in your -- of that conversation in your statement of August 17th, 1969?

A Yes, it's true.

Q It's true, is it not, that there's no mention of that conversation in your statement of August 21st, 1969?

A Yes.

Q It's true, is it not, that there's no mention of that conversation in your testimony at the Bobby Seale bail hearing in April of 1970?

A Yes.

Q It's true, is it not, that there's no mention of, that conversation in your testimony in the McLucas trial in August of 1970?

A Yes.

Q And the first time that you ever mentioned this conversation in any statement or testimony, is here in this courtroom this time, is that right?

A Yes.

Q Had you ever made any record of that conversation?

A I don't understand you.

Q Did you ever make any notes about it?

A I don't understand you, Miss --

Q Well, when you first began to get ready to testify in this courtroom, Mr. Sams, did you refer to any document that described that conversation?

A No.

Q And this is just something you remembered almost two years after May of 1969?

A No, this is just something I never been asked to really express, you know.

- Q But for two years there's been no record --
- A Right.
- Q -- or notation of what was allegedly said in that conversation?

A Yes.

MR. MARKLE: He said he was never asked. If she can show where it was asked, I think it would be --

MISS RORABACK: Your Honor, may I have that question and answer read?

THE COURT: Read it.

(The court reporter complied.)

MR. GARRY: May we have a minute, your Honor? THE COURT: Surely.

BY MISS RORABACK:

- Q Mr. Sams, just a couple of other questions. When you came to Connecticut, on May 17, 1969, that Saturday, you, yourself, didn't think that Alex Rackley was an informer, did you?
 - A No, Ma'am.
- Q And when you questioned him down there in that basement on the next morning, May 18, 1969, you didn't think that Alex Rackley was an informer, did you?

MISS MARKLE: Object, if the Court please.
He answered this just this morning.

THE COURT: We have been ov er it a-1 pretty thoroughly, Hiss Roraback.

MISS RORABACK: Just a couple questions.

THE COURT: All right.

MISS RORABACK: I'm not sure I covered part of this.

THE WITNESS: No. Ma'am.

BY MISS RORABACK:

- Q. And, in fact, at the end of your questioning, you felt that Alex Rackley really told the truth down there in the basement, didn't you?
 - A Yes, Ma'am.

- Q Later on, though, didn't you say to Landon Williams that you thought that Alex Rackley had lied some 3,000 times?
 - A Yes, Ma'am.
 - Q And that statement wasn't true, was it?
 - A Yes, it was true.
 - Q You thought he lied 3,000 times?
 - A Yes.
 - Q But you thought he told the truth?
 - A Yes, to some degree. Yes.

MISS RORABACK: I have no other questions.

THE COURT: Mr. Markle.

MR. MARKLE: Yes, sir.

Your Monor, I am going to offer these three statements that were taken from Mr. Sams as full exhibits.

THE COURT: Miss Roraback.

MISS RORABACK: If your Honor please, I do not think they are admissible in any form.

THE COURT: Is it you have an objection?

MISS RORABACK: They contain a good deal of --

THE COURT: You object?

MISS RORABACK: I certainly do.

THE COURT: Mr. Garry?

MR. GARRY: Yes.

THE COURT: Objection sustained.

REDIRECT EXAMINATION BY MR. MARKLE:

O I am going to show you --

MR. MARKLE: Might this be marked for identification, your Honor.

THE COURT: Double S.

What is it?

MR. MARKLE: A statement taken in Toronto, your Honor.

THE COURT: What date?

MISS RORABACK: I'm sorry?

MR. MARKLE: The date is August 15th, your Honor.

THE COURT: All right.

(The document referred to was marked as STATE'S EXHIBIT SS FOR IDENTIFICATION.)

BY MR. MARKLE:

O Showing you State's Exhibit SS for Identification, where you were asked by Miss Roraback whether or not there was any mention in the statement that you gave concerning a sister being assigned to sleep with Mr. Rackley, do you recall that? (Indicating)

MISS RORABACK: That's not correct, your Honor.

My question, I believe, was whether Ericka

Huggins had assigned anyone, and --

THE COURT: All right.

Let him bring out what he wants to. You take it up again, if you care to.

BY MR. MARKLES

O What, if anything, did you tell the girl -MISS RORABACK: Exception be noted.

THE COURT: Exception may be noted.



Q What, if anything, did you tell the F.B.I. at that time?

A Here it says -

MR. GARRY: Just a minute.

THE COURT: Don't read.

NR. GARRY: He is reading from a document not in evidence.

THE COURT: Don't read.

MR. MARKLE: Well, I will offer this, your Honor.

He was asked from this, and I am offering it in context for verbal completeness.

THE COURT: He can answer your question, but he can't read it.

MR. MARKLE: But I'm offering this, because this was a document he was shown, and I want to show the jury why or how that came about. It's in the context of verbal completeness.

THE COURT: I will sustain the objection.

Ask him to refresh his recollection.

MR. MARKLE: All right.

BY MR. MARKLE:

Q Would you read that and refresh your recollection? (Indicating)





- A (No response.)
- Q Did you at that time tell them that one of the sisters was told that Rackley was a pig?

MR. GARRY: Just a minute, if your Honor please.

That's leading and suggestive, and I will,

on that basis, --

THE COURT: Overrule the objection.

MR. GARRY: Exception.

MISS RORABACK: Same objection for me, and same exception.

THE COURT: Exceptions may be noted for both parties.

BY HR. MARKLE:

Q Mr. Sams, would you go to Page 1, at the bottom.

Were you told that -- did you tell that to the F.B.I. at that time?

A Yes.

Q And did you tell the F.B.I. that she was told she should try to seduce him?

MISS RORABACK: If your Honor please, I have the same objection, since it's Mr. Markle's witness and he is leading.

THE COURT: Overrule the objection.

MISS RORABACK: Exception.

MR. GARRY: Exception.





THE COURT: Exceptions may be noted for both parties.

BY MR. MARKLE:

- Q ". . . get him to admit he was a pig." Did you tell the F.B.I. that? (Indicating)
 - A Yes.
- O Did you tell them that, "I do not know this sisters, name but she spent the night with ALEX" (Indicating)

MISS RORABACK: If your Honor please, I think now Mr. Markle is reading --

THE WITHESS: Yes.

MISS RORABACK: - from a document not in evidence.

THE COURT: You are reading pretty far, Mr. Markle.

MR. MARKLE: All right.

BY MR. MARKLE:

- O Was this something you just related to the F.B.I. and they took it down at that time?
 - A Yes.
 - Q And is that what you told them?
 - A Yes.

MR. MARKLE: Might this be marked for identification, the August 21st statement by Mr. Sams.

THE COURT: Double T.

(The document referred to was marked as STATE*5 EXHIBIT TT FOR IDENTIFICATION.)

BY MR. MARKLE:

- Q I show you State's Exhibit TT for Identification, and I ask you to go to Page 39, Mr. Sams. (Indicating)
 - A (No response.)
 - Q And are you on Page 39, sir?
 - A Yes.
- Q And were you asked about a gag in the mouth of the victim --

MR. GARRY: Just a minute, if your Honor please.

That's leading and suggestive.

MR. MARKLE: I'm not finished with my question.

MR. GARRY: I don't care whether he has or not, it's leading.

THE COURT: Let him finish it, and then make your objection.

BY MR. MARKLES

Q Were you not asked by Miss Roraback, on her cross examination. --

MISS RORABACK: I'll object to this form, because it's obviously about to be leading and suggestive, your Honor, and it's his own witness.



We are not talking about cross examination.

MR. MARKLE: I will offer the whole page,
your Honor, if I can't put the statement --

THE COURT: Mr. Markle, before you show him the statement, put your question to him. If he doesn't recall, then you can show it to him to refresh his recollection and then ask him the question.

BY MR. MARKLE:

Q Were you shown --

THE COURT: That's the practice.

BY MR. MARKLE:

- Ω Do you recall being shown a page by Miss Roraback concerning what you said to Mr. DeRosa?
 - A Yes.
 - Q Concerning a gag?
 - A Yes.
- Q And is that the page you were shown, "39"? (Indicating)
 - A Yes.
 - Q And would you --

MISS RORABACK: If your Honor please, that's a misstatement of what occurred. I did not show him the statement of August 21st.

Mr. Markle must know full better than I do, because he was taking notes while I was asking the



questions.

MR. MARKLE: My notes do so indicate, your Honor, and that's why I am right where I am.

THE COURT: Well, go ahead anyway.

BY MR. MARKLE:

- Q And at that time, was there -- were you asked concerning about dressing the victim?
 - A Yes.
- Q And whether or not there was anything asked about a question of a gag in the mouth?
 - A Yes.
 - Ω And what, if anything, did you say at that staye?
- A I told him that I think Alex Rackley had a gag in his mouth.

MISS RORABACK: Might the record note, your Honor, my page reference was Page 41, not Page 39.

THE COURT: Same statement?

MISS RORABACK: Same statement.

BY MR. MARKLE:

Q All right, go to Page 41, would you please.
Would you read that, please?

THE COURT: He can't read it, Mr. Markle.

You mean to himself?

MR. MARKIE: Yes, sir, just to himself.

THE COURT: All right.

THE WITNESS: 41?

MR. MARKIE: Yes, sir.

THE WITNESS: All right.

BY MR. MARKLE:

Q What, if anything -- does that refresh your recollection as to whether or not the victim was gagged?

A Yes.

Q What, if anything, did you tell Mr. DeRosa at that time?

MISS RORABACK: If your Honor please, I don't think that's a proper question.

THE COURT: Overruled.

MISS RORABACK: He refreshes his recollection, and then what was the fact is the question, not what he told somebody.

THE COURT: Why don't you rephrase it that way, Mr. Markle?

MR. MARKLE: Well, if your Honor please, she

asked him exactly that same thing, she claims, and I would like to clear it up, what he said and what the question was.

THE COURT: Ask him what was the fact, was he or wasn't he.

BY MR. MARKLE:

Q If you know, was he or was he not gagged at that time he was taken from the house?

A Yes.

Q And directing your attention, in that same statement, to Page 13, Mr. Sams, you were asked by Miss Roraback whether or not in the statement you had mentioned Mrs. Huggins having said anything to Maude Francis. I will ask you this:

Were you asked, on Page 13, by Sergeant DeRosa a question --

MR. GARRY: Just a minute.

I am going to object to his reading --

THE COURT: Sustained.

MR. GARRY: -- from any document --

MR. MARKLE: I claim it, on the grounds of verbal completeness, your Honor.

THE COURT: Sustained.

MR. MARKLE: The jury is entitled --

THE COURT: Take an exception.

MR. MARKIE: All right, I'll take an exception.



BY MR. MARKIE:

Q Did you at that time tell him that a sister had been ordered to sleep with Mr. Rackley?

A Yes.

Q Do you recall stating at the McLucas trial that a book was thrown at Mr. Rackley?

A Yes.

Q And do you remember being shown a page this morning by Miss Roraback, in which she asked you whether or not she threw it over to Alex Rackley?

A Yes.

And you were asked to look at Page 1283, --

A Yes.

Q -- 183, and does not that page read as follows, in toto -- (indicating)

MISS RORABACK: What page?

MR. MARKLE: I am reading -- 1283 was your page reference, the other reference is 113.

BY MR. MARKLE:

Q "Q ---

MISS RORABACK: I'll object.

MR. GARRY: I don't think he can do this.

THE COURT: You are going to read?

MR. MARKLE: Yes, sir.

THE COURT: You object?

MR. GARRY: I object.

MISS RORABACK: Yes.

THE COURT: Sustained.

MR. MARKLE: Might I take an exception on the grounds of verbal completeness?

THE COURT: Yes, you may.

8-4 BY MR. MARKLE:

Q Did you at that time tell --

MR. GARRY: Well, just a minute, your Honor.

I personally will withdraw the objection.

Let him read it.

THE COURT: Miss Roraback?

MISS RORABACK: Pardon me, your Honor.

No, I will stay with my objection.

THE COURT: My ruling stands.

MR. MARKLE: Might I have an exception, your

Honor?

THE COURT: Exception noted.

BY MR. MARKLE:

Q Did you not at that time, as you told Miss Roraback this morning, tell her that you had -- that Mrs. Huggins had thrown the book at Mr. Rackley?

A Yes.

Q Do you recall being asked by Miss Roraback yester-day, Mr. Sams. --

MR. GARRY: We weren't in court here yesterday, your Honor.

THE COURT: Friday.

MR. MARKIE: Thank you, Mr. Garry, you're right.
BY MR. MARKIE:

Q Do you recall the last day of testimony, when you were on the stand, Mr. Sams, being asked by Miss Roraback -- maybe it was this morning -- where you were asked concerning whether or not, when you arrived at the house, you had told -- or, rather, Mr. Williams had told anyone that Rackley was being suspected of being a pig?

A Yes.

Q And do you recall being shown, by Miss Roraback, the August 21st statement, 1969?

A Yes.

Q And do you recall my -- did I not ask you about Pages 9 and 10, this morning, of that statement?

A Yes.

Q And did you not state that you -- when Miss Roraback questioned --

MR. GARRY: Just a minute.

That's leading and suggestive, and, now, it's obvious --

THE COURT: I'll sustain the objection.

BY MR. MARKLE:

Q Did you have a conversation with me this morning concerning Pages 9 and 10 of this statement?

A Yes.

MR. GARRY: If your Honor please, what conversation he had with him this morning is certainly irrelevant.

THE COURT: Wait a minute.

Didn't we cover this Friday afternoon, just prior to the recess?

MISS RORABACK: We sure did.

THE COURT: Miss Roraback was talking about Pages 8 to 10, and apparently the witness read Page 8 and didn't read 9, and you came up and showed him 9.

Wasn't that all done?

MR. MARKLE: Your Honor told me to clear it up on redirect.

THE COURT: But you cleared it up right then and there, as I recall, last Friday.

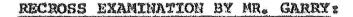
MR. MARKLE: If your Honor feels that way, all right.

THE COURT: All right.

MR. MARKLE: I have no further questions, your Honor.

THE COURT: Mr. Garry.





Q Isn't it a fact, sir, that you told Sergeant DeRosa on the 21st day of August, 1969, that Brother Alex was ungagged?

MR. MARKLE: May I have that read. I didn*t hear the question.

THE COURT: The question may be read.

(The last question by Mr. Garry was read by the court reporter.)

THE WITNESS: When --

THE COURT: For my benefit, do you mean that he did not have a gag or that he had a gag and it was taken out, which do you mean?

MR. GARRY: The gag was taken out.

THE COURT: Do you understand it, Mr. Sams?

THE WITNESS: Yes, but I am trying to find out --

MR. GARRY: If your Honor please, so that we will clarify it.

BY MR. GARRY:

Q I call your attention to Page 41 of your statement of August 21, 1969. I am calling your attention to the question where it begins, "Was he gagged?"

A I told him I wasn't sure, but then I told him that it was an error and that he was gagged.

Q You did say, did you not, at that time --





- A That I wasn't sure at that time.
- Q You did say, at that time, that he was ungagged, didn't you say that?

A No.

MR. MARKLE: I will object, if the Court please.

See, that's the unfairness of it. That answer

does not --

THE COURT: Mr. Markle, relax.

Go ahead.

MR. GARRY: I have no objection, your Honor, if the question and answer can be read.

THE COURT: Handle it any way you want. You are examining him now. I don't know what you mean by, you have no objection.

MR. GARRY: He says that's not what it says.

I have no objection if it's read.

MR. MARKLE: I have no objection either.

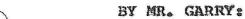
THE COURT: What do you want, the whole page read?

Do you agree, Miss Roraback?

MISS RORABACK: No. One question and answer.

MR. GARRY: The question and answer is the only one I am talking about.

THE COURT: Put your question and I'll rule.



- Q Isn't it a fact that the question was asked you,
 "Was he gagged?" That was asked you, was it not?
 - A Yes.
 - Q And you said, did you not, that he was ungagged?
 - A No, I didn'tsay that.

MR. MARKLE: I will object.

Wait a minute, Mr. Sams.

This is a different context of time.

THE COURT: Take it up on re-redirect. The witness answered the question.

Did you get it, Mr. Reporter?

Read the answer.

(The answer of the witness was read by the court reporter.)

BY MR. GARRY:

Q Does it appear here in the statement that you did say that?

A No.

MR. MARKLE: I object, unless that is offered.

THE COURT: He said, "No."

BY MR. GARRY:

Q Was the following question read to you and you gave the following answer, at that time, to Sergeant DeRosa -
MR. MARKLE: I am going to object, if the Court



please. The Court wouldn*t let me do this.

MR. GARRY: I haven't read it yet.

MR. MARKLE: Before it starts. It is out of context.

MR. GARRY: This is cross examination.

He has denied --

THE COURT: Do you want to read from that document, Mr. Garry?

MR. GARRY: I am going to read whether the question was asked and this answer given at that particular time.

THE COURT: That's not in evidence, Mr. Garry.

MR. GARRY: I appreciate that is is not in evidence.

THE COURT: The witness already said, "No."
BY MR. GARRY:

Q Did you say at that time, when the question was asked you whether he was gagged, first you said you were not sure and then you said he wasn't gagged, is that right?

MR. MARKLE: I will object, if the Court please.

BY MR. GARRY:

Q That is correct, is it not?

MR. MARKLE: I will object.

THE COURT: Overruled.

Can you answer that?

THE WITHESS: I think I answered he wasn't gagged, then I said I think he was gagged, and then I said he was gagged.

THE COURT: Now you have it three ways.

There is a thought running through my mind, but I won't say it.

MR. GARRY: I have no further questions.

THE COURT: Miss Roraback.

MR. GARRY: May I have the question and answer read.

THE COURT: Read it, Mr. Reporter.

(The court reporter complied.)

THE COURT: All right.

BY MR. GARRY:

Q Did you ever say he was not gagged?

A I said I think he wasn't gagged, Mr. Garry.

THE COURT: He said he thinks he wasn't gagged.

MR. GARRY: Wash't?

THE COURT: Was not.

MR. GARRY: Just so I hear it properly.

I have no further questions.

THE COURT: Miss Roraback.

(Page 2153 follows - no omission)

RECROSS-EXAMINATION BY MISS RORABACK:

Q Mr. Sams, you were shown several statements by Mr. Markle concerning this alleged conversation about Maude Francis trying to seduce Mr. Rackley. I would like to ask you again, it is true, is it not, that in your statements of August 15, 1969, August 16, 1969, and August 21, 1969, you did not make any mention of Ericka Huggins being a person who participated in that conversation?

A Would you state those names again, please?

THE COURT: Read it, Mr. Reporter.

(The last question by Miss Roraback was read by the court reporter.)

A Yes, I think so.

Q And you were asked, were you not, when you gave your statement on August 21, 1969, by Sergeant DeRosa, "Is there anything further that you can tell me about this particular murder," and you said, "That's about it"?

A Yes.

Q Would it surprise you to know, Mr. Sams, that Maude Francis testified in this courtroom and said it was you who told her to try to seduce --

MR. MARKLE: I object.

Just a minute, Mr. Sams.

THE COURT: Sustained.

MISS RORABACK: May an exception be noted.

THE COURT: An exception may be noted.

BY MISS RORABACK:

Q Mr. Sams, Mr. Markle on his examination of you just now asked you a question about your testimony in the McLucas trial concerning whether Ericka Huggins threw a book to Mr. Rackley or threw it at him, and he showed you a certain portion of Page 1283 of your testimony. I would ask you to read the entire page, Mr. Sams.

(Document handed to witness.)

- A The entire page?
- Q Yes.

MR. MARKLE: I didn't ask him to read the entire page.

THE COURT: She is asking him to read the whole page.

Go ahead and read it.

(The witness complied.)

- A "And that's when you..." --
- Q I didn't mean out loud.

THE COURT: Read it to yourself, Mr. Sams. Put your question.

BY MSS RORABACK:

Q It is true, Mr. Sams, is it not, that when you testified in the McLucas trial, you said that Ericka Huggins threw the book to him?



MR. MARKLE: I will object to it. He never said it.

I will offer the page.

BY MISS RORABACK:

Q You answered a question, if she threw it to him, and you said yes, didn't you?

MR. MARKLE: What the lawyer says isn't what he says.

THE COURT: Do you object to it?

MR. MARKLE: I object to it, yes.

THE COURT: Miss Roraback.

MISS RORABACK: I claim it.

THE COURT: Offer the whole page, the one you just had him read.

MR. GARRY: I have no objection to having the whole page read.

MISS RORABACK: I have no objection either.

THE COURT: Page what?

MISS RORABACK: 1283 of the Sams' testimony in the McLucas trial.

THE COURT: I take it that this is Mr. Markle's offer, and there is no objection to it?

MR. GARRY: No objection from any one of the counsel.

THE COURT: Page 1283 of the Sams testimony of

the McLucas trial, Exhibit UU.

(Page 1283 of the McLucas trial transcript was received in evidence as STATE'S EXHIBIT UU.)

MR. GARRY: Mr. Rosen objects because he loses a page out of his transcript.

THE COURT: You know where it is, anyway, Mr. Rosen.

MR. ROSEN: Yes, it's the one that's missing.

THE COURT: Do you have anything further, Miss
Roraback?

MISS RORABACK: Yes.

BY MISS RORABACK:

Q In this testimony, Mr. Sams, the question was asked, "Now, Mr. Sams, she didn't throw it at Alex, did she?" --

THE COURT: Are you reading the whole page?

MR. MARKLE: No, she is right in the middle.

THE COURT: Somebody is going to read the whole page now.

I don't care if it is you or you or you.

MISS RORABACK: Why don't we have Mr. Sams
read it.

THE COURT: No, one of the counsel will read it.

MR. GARRY: But read it slowly.

MISS RORABACK: It is Page 1283 of the testimony of the McLucas trial by Mr. Sams, State's Exhibit W.

"A Yes. sir.

"Q And that's when you said that Ericka woke him up?

"A He was laying there sleeping, yes.

"Q And how did you say she woke him up?

"A She took a book and throwed it at him and told him to get up.

"Q She did what?

"A She took a book and throwed it at him and told him to get up.

"O Throwed it at him?

"A Yes, and told him to get up.

"Q You're sure that's what she did?

"A Yes, I'm positive.

"Q Just read this statement to yourself there.

"(The witness reading to himself.)

"MR. MARKLE: Your Honor please, I'll object to that.

"Q Okay?

"THE COURT: How can you object to him showing a piece of paper?

"MR. MARKLE: What's the purpose of showing it to him?

"THE COURT: I don't know. He has a right to

do it.

"Q Now, Mr. Sams, she didn't throw it at Alex, did she? She threw it over to Alex and Alex started to look at the book?

"A Yes sir, Mr. Koskoff.

"Q That's correct, isn't it?

"A Yes.

"Q Was Alex able to read?

"A Yes, sir.

THE COURT: There, you have it, ladies and gentlemen.

Anything further, Miss Roraback?

MISS RORABACK: Just one other question, your Honor.

BY MISS RORABACK:

Q And it is true also, Mr. Sams, that in the statement that you gave to Sergeant DeRosa, August 21, 1969, you said there that Mrs. Huggins threw the book over to Mr. Rackley, not that she threw it at him?

A I said she throwed it at him. They use the word, "threw." I didn't use that.

Q You said in your statement of August 21, 1969, that she threw it at him?

MR. MARKLE: I will object to that. The reference to a statement not in evidence.

Why don't we put the whole thing in?

MISS RORABACK: I asked him what he said at
the time.

THE COURT: That's all the question is, what did you say to Sergeant DeRosa.

BY MISS RORABACK:

- Q Did you say to Sergeant DeRosa that Mrs. Huggins threw the book at Mr. Rackley, or did you say she threw it to Mr. Rackley?
 - A I said she throwed the book over to him.
 - Q Throwed it over to him.

MISS RORABACK: I have no further questions.

MR. MARKLE: I have no further questions.

THE COURT: You may step down.

(The witness was excused.)

THE COURT: All right, ladies and gentlemen, you may prepare to go to lunch. You may retire.

(The jury was excused at 1:02 P.M.)

THE COURT: All right. Prepare to go to lunch.

Five past two, counsel.

Recess.

(The court recessed at 1:05 P.M.)



AFTERNOON SESSION

(The court reconvened at 2:07 P. M.)

THE COURT: All set, counsel?

MR. MARKLE: Yes, your Honor.

THE COURT: Call the jury.

Hold it, Sheriff.

Call the jury.

(The jury entered the courtroom at 2:08 P. M.)

THE COURT: All right, Mr. Markle.

MR. MARKLE: Mr. Lyman, take the stand, please.



ROBERT

R.

LYHAN,

of 111 Park Street, New Haven, Connecticut, having been called as a witness by the State, was duly sworn and testified as follows:

DIRECT EXAMINATION BY MR. MARKLE:

- O Mr. Lyman, directing your attention to August 12th -I'm sorry, August 21, 1970, were you the Official Court
 Reporter in this court?
 - A I was, Mr. Markle.
 - Q And were you the head Official Reporter?
 - A I was, sir.
 - Q And are you today?
 - A I am sir.
- Q And on August 21, 1970, did you take testimony from one Bobby G. Seale in this courtroom?
 - A I did, sir.
 - Q And do you have that transcribed?
 - A I do, sir.
 - Q Is that transcription a true and accurate record?
 - A It is.

MR. MARKLE: I would offer it, your Honor.
THE COURT: Mr. Garry?

MISS RORABACK: If your Honor please, I only heard a portion of what, I believe, is this





testimony, and I certainly, on behalf of my client, would claim that it's complete hearsay. I had no opportunity to cross examine Mr. Seale at that time when he did testify in this other trial, which I was not counsel, and I think it's highly unfair for Mr. Markle to attempt to introduce it in this way.

THE COURT: Mr. Garry?

MR. GARRY: Well, I have no objection to the testimony. Mr. Seale testified in that case, I mean, in the McLucas case, after I told him not to, he went shead and testified, and he was cross examined.

Nowever, I cannot speak for the rights of Miss Roraback's --

THE COURT: You don't have to.

What are you offering it on, both cases?

MR. MARKLE: No, sir, only against Mr. Seale.

THE COURT: Only against Mr. Seale.

You have no objection, Mr. Garry?

MR. GARRY: Could we have a brief recess?

THE COURT: Sure.

MR. GARRY: Could we go outside?

THE COURT: You want to step outside for a

moment?

MR. GARRY: Yes.

THE COURT: Go ahead.

(Mr. Garry, Mr. Rosen and Miss Roraback left the courtroom at 2:10 P. M.)

(Mr. Garry, Mr. Rosen and Miss Roraback returned to the courtroom at 2:12 P. M.)

MR. GARRY: No objection as far as Mr. Seale is concerned.

THE COURT: It's only being offered in your case.

MR. GARRY: I was present at the time, and the record will show that.

THE COURT: I recall.

MR. GARRY: I came up specially so he could be represented by counsel at the time.

THE COURT: I recall, counsel.

All right, then in the Seale case only, it might be marked.

MR. MARKLE: Do you have that there?

THE COURT: Double V.

(The transcript referred to was received in evidence as STATE'S EXHIBIT VV.)

MR. GARRY: The exhibits go with that, too?

HR. MARKLE: Excuse me?

THE COURT: What exhibit?

MR. GARRY: There was an exhibit that was

offered at the time that he testified.

I don't know whether that's part of the record.

MR. MARKLE: I will make it part of the record,

if you like.

I would have no objection.

THE COURT: What is it?

I don't recall that.

MR. MARKLE: I believe it was a -- what came in evidence was a newspaper, your Honor. I may be wrong.

MR. GARRY: Also, a book.

MR. MARKLE: That came in for identification.

I would offer whatever went in with the transcript, so it's complete.

THE COURT: All right.

Let me see it for a moment, Mr. Clerk.

(The Clerk handed State's Exhibit VV to the Court.)

MR. GARRY: May the record also show, your Honor, that although I was present, I was not the one who participated in the examination of Mr. Seale?

THE COURT: Well, I assume this would be read.

MR. GARRY: Yes, your Honor.

THE COURT: Of course, let me leaf through it and see what exhibits were offered.

MR. MARKLE: As far as we can ascertain, it would be triple I and triple J.

THE COURT: Do you have those here, Mr. Clerk?

THE CLERK: What are those again, Mr. Markle?

MR. MARKIE: Triple I.

THE COURT: Is it triple or is it four I's?

THE WITNESS: Four, your Honor.

MR. MARKLE: I'm sorry, four I's and four J's.

THE CLERK: I have them.

THE COURT: I just want to check them.

MR. GARRY: May we be heard outside the presence of the jury, your Honor?

THE COURT: Sure.

On what?

MR. GARRY: With regard to this.

THE COURT: All right, the jury may be excused.

(The jury was excused at 2:17 P.M.)

MR. GARRY: In that transcript, if your Honor please --

THE COURT: Weit a minute. Wait a minute.

MR. GARRY: In that transcript, if your Honor please, is a reference to some things that allegedly were if Mr. McLucas said something or other, and that was not objected to at the time. I had no way of making that objection at the time, I was not counsel, and if it's going to go in there, it's clearly inadmissible in this particular trial, although Mr. Koskoff, for his own purposes, did not see any reason to put in an objection with reference to that place, and I don't think that portion of it should be permitted to be read.

THE COURT: Hold on just a minute, Hr. Garry.

Let me finish thumbing through here until we get

the exhibits straightened out.

What is the marking on this, Mr. Clerk?
Oh, here it is, I found it.

All right, the first one is four I's, and that will become now double W.

(The document referred to was received in evidence as STATE'S EXHIBIT WW.)

MISS RORABACK: That's only in the Seale case?
THE COURT: Only in the Seale case.

All right, the other one is four J's, which is the Findley interview, and that would be double X, right, in the Seale case only.

(The document referred to was received in evidence as STATE'S EXHIBIT XX.)

THE COURT: Now, what is this one, Mr. Clerk?

THE CLERK: I think that's part of XX.

This is separate.

THE COURT: Part of --

THE CLERK: WW.

THE COURT: -- WW.

All right. Now, Mr. Garry, you had something you wanted to say?

MR. GARRY: As I recall, -- I haven't read that for some time -- as I recall, there is in there something that allegedly Mr. McLucas -- if Mr. McLucas testified to such and such, and is clearly an objectionable question.

THE COURT: Would that be on cross?

MR. GARRY: Yes.

THE COURT: Let me see if I can find that.

MR. GARRY: If I had my own copy from my place, I could go right to it.

THE COURT: Well, we'll find it.

MR. MARKLE: I think we are talking about 2105

and 2106, questions by Mr. Koskoff.

THE COURT: I haven't run into it on cross.

MR. MARKLE: I don't think it was on cross.

end tk.

(Page 2169 follows; no omission.)

MR. ROSEN: Your Honor?

THE COURT: Yes.

MR. ROSEN: The reference, I think, Mr. Garry has in mind was 2165.

THE COURT: That's what I'm looking at now.

That's the only mention of McLucas. It's on

Page 2105, and then the next mention is 2164.

At least, as far as I'm able to see.

MR. ROSEN: The question Mr. Garry referred to is the last question on 2165.

MR. GARRY: It continues on the following page,

Page 2167. These are all matters that would not be

admissible under any rules of evidence as to

Mr. Seale.

THE COURT: What do you say about those pages, Mr. Harkle?

MR. MARKLE: It seems to me that if they have no objection to 2016 — or whatever it was I cited, and then come back to this, it puts it into context. It's what he said. The same as if I were to, to have interrogated him, and these are the answers he gave. They are relevant.

MR. GARRY: It would be no different than what the question was this morning: Would you be surprised if Maude Francis said -- such and such,

that your Honor --

THE COURT: That's right, you're not allowed to characterize --

MR. GARRY: Of course not.

THE COURT: -- another witness' testimony.

MR. GARRY: Any references in there to somebody else's testimony would be clearly inadmissible.

MR. MARKLE: It's not characterizing anybody's testimony, your Honor.

THE COURT: Well, I'm looking at a question
"So that if Mr. McLucas testified that there was
discussion about an infiltrator being questioned
at the Kimbro apartment in your presence, this is
not correct?" That's the bottom of Page 2165.

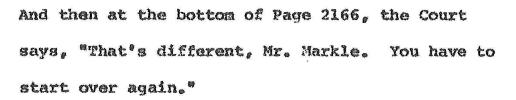
MR. MARKLE: And your Honor ruled on that.
There was an objection.

MR. GARRY: I would have objected to it, and I object to it now. It's clearly not admissible, a proper question to ask.

THE COURT: Relax, let me read the page, will you?

Well, on the bottom of that question, on the bottom of Page 2165, there was an objection because of the word that was used, and then there was some objection about what page you're talking about.





And then you started over again on 2167.

MR. GARRY: Then he starts out, he said,
"If Mr. McLucas said in the statement to the law
enforcement officers that, 'Did they discuss' --"

THE COURT: Let me read it, let me read it.

Now, how far on Page 2167, Mr. Koskoff -- Mr. Garry, are you talking about?

MR. GARRY: The whole thing on 2167. It goes right over to 2168.

THE COURT: Well, that's just cross examination, from the middle of Page 2167, he's not referringto McLucas' testimony. No, that's not so, at the bottom of 2167, that's according to McLucas.

MR. GARRY: That's right.

THE COURT: So, 2167, 2166, and the last question on 2165 go out.

Now, how do you want to do it?

MR. GARRY: Well, I don't know guite how to do it.

(Page 2172 follows - no omission)

THE COURT: I can just delete these two pages, and rip off the last question. I assume you have other copies of this?

MR. GARRY: Well, that's his transcript. I have mine --

MR. LYMAN: This is the one I brought in, your Honor.

THE COURT: Mr. Lyman says it's his.

MR. LYMAN: I have no need for it. It's been offered as an exhibit.

THE COURT: That's what we will do. Take out -Mr. Clerk, if you would take out 2167, 2166, and
then clip off the last question here, that will take
care of things.

All right?

MR. MARKLE: Well, I take an objection, I take an objection, your Honor, and take an exception.

THE COURT: Make your objection.

MR. MARKLE: All right. If your Honor please --

THE COURT: I'll overrule it, and take an exception.

MR. MARKLE: All right. Well, the way I would feel, we would excise the word "McLucas." That would be, I would feel, the proper way.

THE COURT: Well, that would take the question

out of context then, because you are questioning with relation to McLucas' testimony.

MR. MARKLE: Well, that's the way I would suggest the Court do it.

THE COURT: No, that would take the question completely out of context then.

Take out those two pages, and that last question.

MR. MARKLE: Might I have an exception, your

Honor?

THE COURT: I gave you one already.

MR. GARRY: What pages are those again, your Honor?

THE COURT: 2167, 2166, and the last question on 2165, the last question and answer on 2165.

MR. GARRY: Those are actually going to be taken out of the transcript?

THE COURT: There they are. (Indicating)
Give them back to Mr. Lyman.

MISS RORABACK: If your Honor please, I wish to make a further objection to this exhibit to be sure that the record is clear. I believe, if I remember correctly, that first I merely refer to the obvious hearsay qualities of this as to the Defendant Huggins.

I think, also, however, it's important to cite

your Honor to the case of Bruton versus the United States, and the fact that this is apparently a statement of a co-denfendant in this case which under the doctrine of Bruton would be inadmissible as against Mrs. Huggins, and the Bruton doctrine that the prejudice which might be done to her cannot be eradicated by limiting instructions. For that reason I think it should not be admitted in this case because of the damage it may do as to Mrs. Huggins, and the fact it is such obvious hearsay to Mrs. Huggins.

It's interesting to note that Mr. Markle, almost a year ago refused to permit -- or, I wouldn't say "refused to permit" -- but moved to sever the trial of Lonnie McLucas from that of Mrs. Huggins because he felt there were Bruton problems in that case. And yet here in his, in this present trial he, himself, is introducing the statement as part of the State's case, the statement of a co-defendant in this case. I think it's highly unfair. I object to it.

MR. MARKIE: If your Honor please, just a short answer to that. Of course, at the time that I went ahead on the McLucas case, if Miss Roraback will recall, I had no statement from Mr. Seale, he

hadn't testified. Secondly, when we got to this case, if the Court will recall, these co-defendants chose to be tried together, and there had been a statement. And if there is a question of Bruton, then I would suggest to the Court again that any reference to Mrs. Huggins be excised, if there's really a serious objection.

MISS RORABACK: If your Honor please, I would like it noted on the record that Mr. Markle, himself, never objected to the -- or raised this problem at the time when we first began this trial. He never talked about severing these two cases and, indeed, never raised any question as to whether there would, or would not be a Bruton problem here.

It's his action, not mine. Our arguments in the McLucas — in opposition to the McLucas motion to have that case tried separately, your Honor will remember, included the fact that we felt that there were, there were counterveiling interests and that it would be — even if there was a Bruton problem and Mr. Markle was limited in his presentation of his case, in the McLucas case, nevertheless there were other reasons why the cases should be tried together, and that the damage to my client by delaying the case, and forcing her to wait for her trial was



Lyman - direct 2176 such, it should not, the Bruton consideration should not have been relevant there, and Mr. Markle should have been limited in his presentation.

We lost on that motion. I understand that, but here we are, a year later, and Mr. Markle well knowing last September, October and November, when we were in the final stages of pre-trial motions on this case, and then again beginning the selection of the jury and the testimony, never once raised the problem that he would like to use statements of Mr. Seale in this case.

It seems to me that to try to do so now, and prejudice my client in this courtroom, is just unfair and shows a gross disregard of her rights.

I object to the use of --

THE COURT: Let me see that statement.

MISS RORABACK: -- of the statement in any form.

MR. MARKLE: May I just make this observation, your Honor? Miss Roraback sat through Mr. Seale's testimony and knew what he testified to.

THE COURT: What's that got to do with it?

MR. MARKLE: Well, it's the fact that, your

Honor, I'm putting it in now. She well knew I had
this transcript from that trial. That's the point
of it.

THE COURT: What's that got to do with it?

WR MARKLE: She's talking shout a Bruton

MR. MARKLE: She's talking about a Bruton claim that I didn't, supposedly, raise. I can't anticipate what objections defense are going to raise. She knew, well knew when they asked to have this trial jointly that the statement was in my possession. It was a public document in point of fact.

MISS RORABACK: I'm surprised Mr. Markle doesn't claim he has a right to put Mr. Seale on the stand as part of plaintiff's -- I mean, the State's case. That's the logic of his position right now, and it seems to me absurd.

MR. MARKLE: I'm claiming a judicial admission, your Honor, against Mr. Seale -- period.



MISS RORABACK: I might also, just for the record -- I was not present throughout Mr. Seale's testimony. I was in another courtroom out in West Haven.

THE COURT: Nowhere is your client mentioned here.

You have a copy of this?

MISS RORABACK: I have not read it in the last -- since this trial began, your Honor.

(Transcript of Mr. Seale's testimony handed to Miss Roraback.)

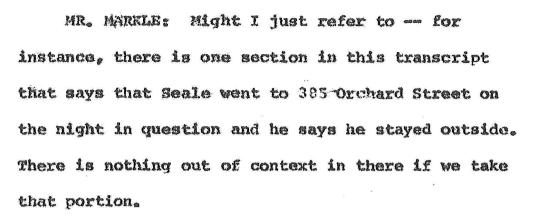
THE COURT: Mrs. Huggins' name is mentioned a number of times in here, at least three different sections, and I don't see how you can separate that part from the rest of it. Then it takes everything out of context.

I think, under Bruton, I may very well be committing error to let it in, so I am not going to let it in.

MR. MARKLE: If your Honor please, before your Honor rules, can we go to various pages where there is no mention and take it from there?

THE COURT: I don't see how you can do that because then you take it out of context.

There are at least three different sections.



THE COURT: You want to offer that part?
That's different.

MR. MARKLE: If your Honor is going to rule that way, I will offer it, yes.

MR. GABRY: I will object to anything out of context.

If the whole thing goes in, fine, I don't object to it, except what we referred to, but the rest of it, if it goes in, I am going to object to it.

Mr. Seale will be here to testify. He will have ample time to cross-examine. I might as well tell him, he will testify.

THE COURT: I am going to stick to my ruling.

I will keep it out.

MR. MARKLE: Then I am going to take an exception.

THE COURT: If the objection is made by
Miss Roraback concerning Bruton, I think she may
very well have a solid point and I am not going to

do something that might be wrong.

MR. MARKLE: Under those grounds, I would take exception.

THE COURT: Exception may be noted.

Mr. Clerk, we have to backtrack. Take them out.

MR. GARRY: Would you tell the jury that your Honor's ruling that this is inadmissible is based on Miss Roraback's objection, not mine.

THE COURT: I understand.

MR.MARKLE: If your Honor please, might I just observe that where a matter is marked in evidence, and then it is withdrawn -- I would like to raise a further objection --

THE COURT: Wait a minute. Don't take it off. Mark it for identification.

I assume that's what you want to do?

MR. MARKLE: Yes.

This was admitted in evidence. There was no objection until there was a delay and then everybody objected.

THE COURT: It would be nice if we did it all the first time.

MR. GARRY: It would be nicer if I was informed that that was what he was going to do, and then I





would be able to intelligently meet this.

THE COURT: Relax, You won, Sit down.

MR. MARKLE: Exception.

THE COURT: Exception.

Those three will be marked for identification only, the same markings they already have.

MR. MARKLE: If your Honor please, I hate to prolong it, your Honor, but just so the Appeals Court would know where we are going, if it is necessary, might I cite some of the pages that would be relevant, without Mrs. Huggins being mentioned.

THE COURT: It will be all marked for identification so it will be available.

MR. MARKLE: I am offering those portions in which her name is not being mentioned at all.

THE COURT: I don't think I can take it out of context like that.

MR. MARKLE: I just want that known for the record.

THE COURT: Mark them now for identification.

(State's Exhibits in evidence VV, WW, and XX were marked for identification and removed from evidence.)

THE COURT: Call the jury.

(The jury entered the courtroom at 2:55 P. M.)



THE COURT: I have forgotten where we were when I had to ask you to retire.

I think we were at the point where Mr. Garry said he had no objection to the transcript, and then I was going to look through it.

Mr. Garry has no objection to that transcript, the transcript of Mr. Seale's testimony in the McLucas trial, but Miss Roraback raised some objections that I think are pertinent and sound, so I have excluded it and Mr. Markle has taken exception.

The transcript has been marked for identification only. It is not an exhibit, at least at this time.

All right, Mr. Markle.

MR. MARKLE: I will call Mr. Pastore.

THE COURT: Mr. Lyman --

MR. MARKLE: I'm sorry, I forgot. Poor Mr. Lyman.

I have no further questions of Mr. Lyman.

THE COURT: Any questions from counsel?

MISS RORABACK: No.

THE COURT: You are excused.

(The witness was excused.)

Page 2183 follows - no omission)

NICHOLAS

PASTORE.

of 642 Woodward Avenue, New Haven, Connecticut, having been called as a witness by the State, was duly sworn and testified as follows:

DIRECT EXAMINATION BY MR. MARKLE:

- Q Mr. Pastore, directing your attention to May 19, 1969, were you a member of the New Haven Police Department?
 - A Yes, sir.
- Q And are you presently employed by my office at the present time as a county detective?
 - A Yes, sir.
- Q But in May of 1969, May 19th, you were a New Haven Police Officer?
 - A Yes, sir.
- Q Were you on duty in the evening hours of or the afternoon hours of May 19, 1969?
 - A I was, sir.
 - Q Where were you located?
 - A In the City of New Haven.
- Q And did you have occasion on May 19th to see Mr. Seale?
 - A I did, sir.
 - Q When did you first observe him?
 - A Shortly before 6:00 P.M. on the 19th.

- Q Where did you see him?
- A In the vicinity of 127 Hurlburt Street.

MR. GARRY: Let's have the exact time, if your Honor please. This man has records. He said shortly before 6:00. That is not sufficient.

THE COURT: He said shortly before 6:00.

That's sufficient, Take it up on cross, Mr. Garry.

BY MR. MARKLE:

- Q Shortly before 6:00 P.M.?
- A That's correct.
- Q And that was at Hurlburt Street?
- A Yes, sir.
- Q What address on Hurlburt Street?
- A 127.
- Q What, if anything, did you observe at that time?
- A He and others had entered the premises at 127 Hurlburt Street.

MR. GARRY: I am going to ask that the others be identified. Too vague.

BY MR. MARKLE:

- Q If you can, Mr. Pastore, would you tell me who the others were?
- A The others were Landon Williams and Rory Hithe and others that were not identified at that time.
 - Q Did you subsequently come to know who they were?

- A Not all of them, no, sir.
- Q When, if ever, did you next see Mr. Seale?
- A 9:40 that same evening, 9:45 P.M.

MISS RORABACK: I am sorry.

THE WITNESS: 9:45 P.M.

BY MR. MARKLE:

- Q Where did you see him?
- A At Elm and College Street in New Haven, the Battell Chapel.
 - Q Who was he with, if you know?
 - A The aforementioned persons, with others.

MR. GARRY: Just a minute. I am going to ask that "others" be identified. That is too vague a terminology.

THE COURT: Want to identify them?

BY MR. MARKLE:

- Q If you can, Mr. Pastore, would you tell me who they were?
 - A Would you repeat that question?
 - Q Who did you see him with at Battell Chapel?
- A Landon Williams, Rory Hithe, Warren Kimbro, Lonnie McLucas. That's all I can recall at this time.
 - Q And where were they at this time?
 - A At the Battell Chapel.
 - Q Inside or outside?

- A Outside.
- Q What, if anything, did you see them do?
- A They entered the chapel.
- Q What, if anything, did you do?
- A Continued my general observations.
- Q And when did you next see Mr. Seale?
- A Approximately 11:15 P.M.
- Q Where?
- A Exiting from Battell Chapel.
- Q With whom was he with, if anyone?
- A The same aforementioned people.

MR. GARRY: Wait a minute. I am going to ask that he name those persons that were with him at that time.

THE COURT: Take it up on cross, Mr. Garry.
He said the same aforementioned people.

BY MR. MARKLE:

- Q And when did you next see Mr. Seale?
- A The next time was at 365 Orchard Street, the Panther headquarters.
 - Q What time was that?
- A About seven or ten minutes later after exiting Battell Chapel.
 - Q What time did you say they exited Battell?
 - A 11:15.

- Q And what, if anything, did you observe Mr. Seale do at 365 Orchard Street?
 - A He entered the premises.
 - Q What, if anything, did you do?
- A Stood outside a while and continued observations and moved on.
 - Q And when did you next see Mr. Seale?
- A He was sighted at the vicinity of 127 Hurlburt Street later.
 - Q Did you observe him do anything at that time?
- A Just in the vicinity of the steps of 127 Hurlburt Street.
 - Q And approximately what time was that?
 - A That was approximately 12:40 the next day, the 20th.

MR. GARRY: Just a minute. I want to hear that question and answer read.

THE COURT: It may be read.

(The last question by Mr. Markle and the answer of the witness were read by the court reporter.)

MR. GARRY: The question before that, your Honor.

THE COURT: All right. Read the one before that, the question and answer.

(The previous question by Mr. Markle and the answer of the witness were read by the court reporter.)

BY MR. MARKLE:

- Q When did you next see him?
- A He was seen at 5:20 A.M., the morning of the 20th.
- Q Where was that?
- A At 365 Orchard Street again.
- Q And whom was he with at that time, if you know?
- A Landon Williams and Rory Hithe.
- Q All right. What, if anything, did they do at that time?
 - A Again entered the premises at 365 Orchard Street.
 - Q And when did you next see him?
 - A I didn't see Mr. Seale after that.

MR. MARKLE: I have no further questions, your Honor.



(Page 2189 follows; no omission.)

THE COURT: Miss Roraback.

MISS RORABACK: Excuse me just a minute.

I have no questions, your Honor.

THE COURT: Mr. Garry.

MR. GARRY: May we have all the statements that this man prepared in his own --

MR. MARKLE: The only statement there is, your Honor, is notes that are in evidence in the other case.

MR. GARRY: I don't have them.

THE COURT: All right, we'll get them.

Take it easy.

Mr. Clerk, see if you can find them. There should be notes of Sergeant Pastore.

MR. MARKLE: If your Honor please, that's Defendant's Exhibit 8.

THE CLERK: Give it to Mr. Garry?

THE COURT: Yes, give it to Mr. Garry.

(A document was handed to Mr. Garry by the Clerk.)

CROSS EXAMINATION BY MR. GARRY:

Q Mr. Witness, did you make a report regarding this matter?

A No, sir,



- Annual Property Commencer Commencer
- Q Beg your pardon?
- A No, sir. No, sir.
- Q You never made a report?
- A No.
- Q You filed an affidavit in connection with the arrest of Mr. Seale?
 - A That's correct.
 - Q Did you make a report at all?
- A No, no police report involved in that particular situation.
 - Q Did you make any reports?
 - A Any reports regarding what, sir?
 - Q Regarding the matter you just now testified to.
 - A No written report, no, sir.
- Q And what you have shown me here is, what I have here is the Defendant's Exhibit in the previous McLucas trial, the only one? (Indicating)
 - A May I see it?

(Mr. Garry handed a document to the witness.)
BY MR. GARRY:

- Q Is that right?
- A These are my notes regarding the Seale visit, yes.
- Q Are there any other reports regarding the Rackley homicide?
 - A Many.



MR. MARKLE: I am going to object to that, if the Court please.

That's way out of the scope of where we are, your Honor, and your Honor ruled on it.

MR. GARRY: He has said that there are no --

THE COURT: I'll let the answer stand.

HR. GARRY: Beg your pardon?

THE COURT: I'll let the answer stand.

Wait a minute, first you asked him did he have any other reports concerning this matter, --

MR. GARRY: Yes.

THE COURT: -- and he said, "No," other than notes.

Now, this question is completely different. BY MR. GARRY:

Q Now, in the Rackley homicide investigation, you made reports yourself, did you not?

MR. MARKLE: I'm going to object to this, if the Court please.

It's outside the scope --

THE COURT: Overruled.

MR. MARKLE: Might I have an exception, your Honor?

THE COURT: Exception may be noted.





THE WITNESS: I did make reports in regard to the Rackley homicide investigation.

BY MR. GARRY:

Q Where are those reports?

MR. MARKLE: If the Court please, that's the reason I am objecting.

That's not within the purview of the Statute.

It's not within the purview.

MR. GARRY: This man has made reports -THE COURT: Overrule the objection.
You can answer it.

MR. MARKLE: May I have an exception, your Honor?

THE COURT: Exception noted.

THE WITNESS: Those reports are presently part of the Rackley homicide file in the hands of the State's Attorney.

MR. GARRY: All right.

At this time, I demand to see them.

THE COURT: Well, are they your reports?

I will excuse the jury for a moment.

I will excuse the jury for a moment.

(The jury was excused at 3:10 P. M.)

THE COURT: Are these things that he is talking about, are they statements made by you, or



what are they?

THE WITNESS: They are investigative reports in regards to the -- just prior to the raid of the Panther headquarters, and carried on in the investigation.

THE COURT: How do you claim it, Mr. Garry?

MR. GARRY: I claim it because he had made

these reports himself, he is part and parcel of the Rackley homicide, and --

THE COURT: But our Statute doesn't cover that, Mr. Garry, at all.

MR. GARRY: I believe it does, your Honor.

THE COURT: Statements. Statements. Just what he uses.

I'm looking at 54-86(a). Do you have it in front of you, Mr. Garry?

MR. ROSEN: 86(b), your Honor.

THE COURT: Well, (b) rather.

The Statute doesn't cover it at all.

MR. ROSEN: I think it does, your Honor.

THE COURT: Where?

MR. ROSEN: The Statute says "In the possession of the prosecution, statements by witness which relate to the subject matter as to which the witness has testified."

Now, your Honor may recall in the McLucas case, another New Haven police officer testified, and Mr. Markle made the claim that the only statements which were relevant were statements about the specific answers which he had given to the specific questions Mr. Markle asked, and the Court ruled at thattime that subject matter was the subject matter of the case, the Rackley homicide case, and that's what — when Mr. Pastore talks about many — making many statements, with regard to the Rackley homicide, that's the subject matter that he is testifying to in this case, Mr. Seale is charged with the Rackley homicide, and that's the way your Honor ruled in the McLucas case, and the way —

THE COURT: I don't recall what was done there.

The context is completely different.

What do you say, Mr. Markle?

MR. MARKLE: What do I say, your Honor?

I say, your Honor, it results from just the Jencks Act, which is the history of this supposed act, where it comes from, which I think is unconstitutional in the first place, in the way it's drawn, and I would make that objection to your Honor and reserve my rights on that.

Now, the only testimony he has given is concerning
May 19th. I don't want to get into a general search
of police files or anything else, that was his testimony, May 19th and 20th, and they have his report
on that, and that's all they are entitled to, and
that would be all they would be entitled to under
the Jencks Act, which is 3500, and that's all they
are entitled to under this statute.

When they say "subject matter," they say the subject matter of the direct testimony, period.

THE COURT: I am going to sustain the objection.

MR. MARKLE: Might it be explained to the jury we are not hiding anything, that this is the rule?

THE COURT: I understand.

All right.

MR. ROSEN: Your Honor, may we have all Mr. Pastore's reports which he has made. We are not

interested in the general police file here. We are interested in any reports Mr. Pastore has made regarding the Rackley homicide.

We would like to have those marked for identification.

MR. MARKLE: I don't have them, your Honor.

All I've got is May 19th, whatever else went in on the other case.

MR. ROSEN: Mr. Pastore just testified that he had them.

MR. GARRY: He said --

THE COURT: Relax, one at a time. Either you or him.

Have you any other reports that you made, written reports, not oral? Written?

THE WITNESS: I don't have any, no, your Honor.

THE COURT: Did you make any written reports?

THE WITNESS: It's part of the investigative -
I did make some reports with regard to the Rackley
investigation.

THE COURT: Do you have them here?

THE WITNESS: No, sir.

THE COURT: Do you have them, Mr. Markle?

MR. MARKLE: I probably have them in the general overall file, your Honor.

THE COURT: Well, see if you can get them and let them be marked for identification.

MR. MARKIE: If that's the way --

THE COURT: But I am going to have them sealed in an envelope.

MR. MARKLE: All right.

THE COURT: They can be marked for identifica-

MR. MARKLE: I take exception to that.

THE COURT: Exception.

All right, now, can somebody locate those so they can be marked?

MR. MARKLE: We'll try, your Honor.

I don't know they can get them.

THE COURT: Well, report back to me later on as to what you find.

All right, call the jury.

(The jury entered the courtroom at 3:15 P.M.)

THE COURT: Ladies and gentlemen, we have a statute on our books that, I think, covers this matter, and I indicate I have ruled that this matter is not something that should be turned over to the defense under the provisions of that statute.

All right, Mr. Garry.

MR. GARRY: I offer this document that the

witness has identified as being his memorandum, or whatever you want to call it.

THE COURT: Notes, I think he called it.

MR. GARRY: Notes.

THE COURT: Are you offering it as a full exhibit or for identification?

MR. GARRY: I am going to offer it as a full exhibit, so I can fully cross-examine him on it.

THE COURT: All right.

MIss Roraback, do you join in that offer?

MISS RORABACK: Yes, your Honor.

THE COURT: Mr. Markle?

MISS RORABACK: Oh, no, I'm sorry.

No, your Honor.

MR. MARKIE: I have no objection, your Honor.

THE COURT: I didn't hear you, Miss Roraback.

MISS RORABACK: I withdraw.

I am not offering it.

THE COURT: You are not?

MISS RORABACK: No.

THE COURT: All right. It will be Exhibit 9 in the Seale case only, as a full exhibit.

(The document referred to was received in evidence as DEFENDANT SEALE'S EXHIBIT 9.)

MR. GARRY: May I approach the witness, your

Honor?

THE COURT: Surely.

BY MR. GARRY:

- Q Calling your attention, sir, to the first entry, would you tell the Court and jury what the first entry of your notes are?
 - A It indicates --
 - Q Just read it.
 - A "2:50 P.M. 365 Orchard Street."
 - Q What does it say?
- A "Warren Kimbro. Ericka Huggins, Lonnie McLucas, George Edwards at 365 Orchard Street, front, unknown colored male, unknown colored female."
- Q Walt a minute. Wait a minute. Sir, I just want you to read the first box you have an entry, the entry that you have. (Indicating)
 - A This is the first entry right here. (Indicating)
 - Q You are reading backwards, right?
 - A No. I am reading frontwards.

MR. MARKLE: I am going to object.

He asked him to read it, and then he interprets it.

Can he read it and get it over with?

MR. GARRY: Can we start over again?

THE COURT: Strike everything and start over.



MR. GARRY: I thought it was on this side.

I didn't know he was reading backwards. (Indicating)

THE WITNESS: I'm not reading backwards.

THE COURT: Strike everything and start over

again.

BY MR. GARRY:

- Q Read the first entry that you have.
- A "5/19/69. 5:50 P. M. 365 Orchard Street. Warren Kimbro, Ericka Huggins, Lonnie McLucas, George Edwards at 365 Orchard Street, front, unknown colored male, unknown colored female."
- Q Please, from here on out, go a little slower so we can concentrate on what you're saying, okay?
 - A (No response.)
 - Q Okay?
 - A Yes.

MR. MARKLE: I object.

This is getting argumentative. What is this? I mean, go slow.

THE COURT: I don't see anything wrong, Mr. Markle.

Go ahead, Mr. Garry.

HR. MARKLE: All right.

BY MR. GARRY:

Now, Mr. Seale wasn't in that time and schedule,

was he?

- A No.
- Q All right. The next entry, read it slowly.
- A 5:50 P. M. The 5080 New York. Arrive at 127
 Hurlburt Street. Seale, three colored males, one colored
 female. Observed one colored male, very tall and thin,
 carrying papers."
 - O All right. Where did you pick that car up?
 - A (No response.)
 - Q Where did you sight it?
 - A 127 Hurlburt Street vicinity.
- Q Now, "vicinity" means many things to many people. Where in the vicinity of 127?
 - A Within a block radius.
 - Q Where were you at that time?
 - A In that block radius.
- Q Well, let's be a little more definite. Just where were you when you first sighted the vehicle that you have just referred to in the second box ofyour report, at 6:50 P. M. on the 19th of May, 1969?

THE COURT: Wait a minute.

What time did you say, Mr. Garry?

MR. GARRY: I thought it was --

THE COURT: I think you said 6:50.

MR. GARRY: 5:50, I'm sorry.



THE COURT: All right.

MR. GARRY: I stand corrected.

THE WITNESS: Being more precise, I was in the vicinity of Spring and Hurburt Street.

BY MR. GARRY:

- Q And your car was moving, was it not?
- A Not at that time, no.
- Q Was it stopped?
- A Yes. Yes.
- Ω Who was driving?
- A Detective Carrieri.
- Q And where were you seated?
- A The passenger's side.
- Q Where was the vehicle that you spotted actually? Where was it when you first spotted it?
 - A On Hurlburt Street.
 - 0 Where?
 - A Approaching the vicinity of 127 Hurlburt.
 - Q Did you see anybody get out of the automobile?
 - A I did.
 - Q Who did you -- who got out of the automobile first?
 - A I don't recall.
 - Q Who got out second?
 - A I don't recall the order they got out.
 - Q You did not know Landon Williams at that time, did

you, sir?

- A That's correct.
- You did not know any of the other occupants, did you?
 - A Yes, I did.
 - Q Who did you know was the other occupant?
 - A Bobby Seale.
 - Q Anyone else?
 - A Yes.
 - Q Who?
 - A Brothers from New York.
 - Q Does he have any other name besides "Brothers"?
- A They call him Chairman Brothers. David Brothers,

 I believe it is -- it might be.
- Q Is that in your report, that Chairman Brothers was in the car?
 - A No. sir.
- Q And, as a matter of fact, it doesn't say that there was anybody in there except Seale, is that right?
- A It says -- well, it refers to other colored males and colored females. See, Seale was a conclusive sighting.
- Q When were you notified that Seale was going to be coming into New Haven at that particular time?
- A Well, not that particular time. Earlier that day,

 I had intelligence information that he would be arriving.

- Ω And there was a car that followed him from New York, did it not?
 - A You're telling me that?
 - Q I'm asking you that.
 - A I don't know.
 - Q You really don't know?
 - A No. sir.
- Q You didn't pick up the surveillance after the other automobile left off?
 - A Would you repeat that, please?

THE COURT: It may be read.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: I don't understand the question.
BY MR. GARRY:

- Q You did not see another automobile following the Seale automobile, did you?
- A I don't know if another automobile was following the Seale automobile, no.
- Q Well, from the intelligence report that you got, did the intelligence report say that Seale was being followed into New Haven?
 - A No.
 - Q What did it say?

MR. MARKLE: I'm going to object, if the Court

please.

THE COURT: Overruled.

MR. MARKLE: May I have an exception?

THE COURT: Exception noted.

THE WITNESS: Just that Seale would be arriving in New Haven in the early evening, he is to meet with Ericka and Warren, and he would be with some people from the New York chapter, and that Brothers' name was mentioned at that time.

MR. GARRY: All right.

BY MR. GARRY:

- Q Do you have that in writing?
- A Do I have that in writing?
- Q Yes.
- A No.
- Q What you just told me, do you have that in any report any place?
 - A No.
- Q And you are just remembering this after two years, is that right?
 - A Yes.
- Q This question was never asked you before in the last two years, has it?
 - A Not that I can recall, no.
 - Q And what is the third thing that you -- strike that.

 How long did Mr. Seale remain in the household at

127 Hurlburt?

A You mentioned from 5:50. Is that what you are asking me, from that time I sighted him?

- Q Yes.
- A I have no idea.
- Q You have no idea?
- A No.
- Q As a matter of fact, you have no idea whether Mr. Seale actually went into the house at 127 Hurlburt at 5:50 P.M. on the 19th of May, 1969, do you, from the report that you have?
 - A I saw him go in.
 - Q You actually saw him go in?
 - A Yes.
- Q How far away were you from his automobile when you saw him go in?
 - A Approximately 30 feet.
- Q And you were dressed in uniform, or were you in civilian clothes?
 - A Civilian clothes.
 - Q And what kind of automobile did you have?
- A Oh, I had a private civilian automobile. I don't recall the make of it. We used to rent them at that time.
 - Q Was Mr. Kimbro with them?
 - A Was Mr. Kimbro there at that time?
 - Q Yes.
 - A I don't recall seeing him.
 - Q Well, didn't Mr. Kimbro lead the Seale automobile

to the premises at 127 Hurlburt?

- A Did Mr. Kimbro lead?
- Q Yes.
- A I have no recall of that,
- Q You have no recall that Mr. Kimbro brought the automobile that Mr. Seale was occupying into the area of 127 Hurlburt?
 - A He might have. I didn't see it.
 - Q You didn't see him?
 - A No.
 - Q You know Mr. Kimbro, do you not?
 - A Yes.
 - Q He knows you, too?
 - A Yea.
- Q And he would recognize you if he saw you, would he not?
 - A I would assume so, yes.
 - Q In 1969?
 - A Yes.
- Q But you didn't see Mr. Kimbro driving the automobile leading the Seale automobile into the premises, did you?
 - A I don't recall seeing Warren Kimbro himself, no.
- Q Do you have any notes that you could refresh your memory on, other than the exhibit that we have here in the courtroom? (Indicating)



- A No.
- Q All right. Let's go on. You already told me that you did not know how long Mr. Seale remained at 127 Hurlburt. That's because you drove right away, isn't that right?
 - A Well, shortly thereafter.
 - Q What do you mean "shortly thereafter"?
 - A I just stood around for ten minutes or so.
- Q You stood around; you got out of the car and stood around, right?
 - A Yes.
 - Q And who else stood around with you?
 - A I was by myself at that particular time.
- Q I thought you said there was somebody else in the car?
 - A There was.
 - O He drove off?
- A No. He stood in the car. Our car was stationary, in a stationary position.
 - Q In other words, you got out of the car?
 - A Yes.
 - Q And stood around for about ten minutes?
 - A Approximately that, yes.
 - Q What happened in the ten-minutes time?
 - A There was general people activity in the neighborhood.
 - Q Well, who did you see go into the house at 127 Hurl-

burt, besides Mr. Seale, in that ten-minutes time?

- A Nobody that I identified.
- Q Did you see anybody come out in that ten-minutes time?
 - A Nobody that I identified.
- Q All right. What did you do thereafter? Tell us what you have in your exhibit here, the third entry?
 - A Yes.
 - Q What does that say?
- A "7:10 P.M. Lonnie McLucas entered 127 Hurlburt
 Street."
- Q All right. Were you still waiting there from the time that you were there at 5:30 until 7:10 when you saw Lonnie McLucas go to 127 Hurlburt?
 - A No. I had left and drove around and came back.
 - Q What time did you come back?
 - A Approximately that time.
 - Q And who was driving then?
 - A Same driver.
 - Q Who was that?
 - A Sergeant Carrieri, or Detective Carrieri then.
 - Q And you were sitting next to him?
 - A That's correct.
 - Q How did Mr. McLucas come there?
 - A He came in an automobile; Warren Kimbro's automobile.





- Q It doesn't say so, does it? (Indicating)
- A No.
- Q Did you know Mr. McLucas at that time?
- A I did.
- Q And Mr. McLucas knew you at that time, too, didn't

he?

- A He did.
- Q And did you say "Hello" to Mr. McLucas?
- A Not at that particular time, no.

- Q Did he see you?
- A I don't know if he saw me.
- Q Did you see him?
- A Yes.
- Q Where were you parked at that time?
- A On Spring, near Hurlburt.
- Q And how far is that from 127 Hurlburt?
- A A matter of 40, 50 feet.
- Q 40 or 50 feet?
- A Yes.
- Q And where did Mr. McLucas park his automobile?
- A On Hurlburt Street.
- Q Heading which way?
- A Heading in a southerly direction.
- O Is that a -- is Hurlburt Street a one-way street or two-way street?
 - A One-way.
- Q And are there cars parked on both sides of the street?
 - A That's correct.
- Q And are there "No Parking" signs there on either side of that street?
 - A None that I know of.
- Q And is there a "No Parking" area there at all, 127 Hurlburt Street?

- A None that I know of.
- Q And did Mr. McLucas have his lights on or off when he drove up?
 - A I don't recall.
 - Q How was he dressed?
 - A He was attired in military garb.
 - Q What does that mean?
- A The common uniform the Panthers use; the olive drab jacket, the fatigue jacket, pants, boots.
 - Q And he had a jacket on?
 - A Yes.
 - Q He had a necktle on?
 - A No.
 - O He had a hat on?
 - A I don't recall if he had a hat on or not.
 - Q How was Mr. Seale dressed when you first saw him?
 - A Hewas wearing like a trench coat, raincoat type.
 - Q What kind of coat -- trousers did he have on?
 - A Dark trousers.
 - Q What kind of shoes?
 - A I don't recall.
 - Q Did he have a shirt on?
 - A He did.
 - Q What kind of shirt?
 - A White shirt, open.

- Q Necktie?
- A No.
- Q What was the weather like?
- A At what time, sir?
- Q The 19th.
- A The whole day of the 19th?
- Q No. Let's talk about 5:50.
- A 5:50, it was somewhat cloudy.
- Q And how about at 7:10?
- A It was cloudy, preparing for rain like.
- Q Did it rain that night?
- A It did.
- Q Do you remember that?
- A Distinctly.
- Q That's because it's in your report?
- A No, it's not in the report. It's in my mind.
- Q You remember things two years ago?
- A That's right.
- Q How were you dressed?
- A I was wearing green klinki-type pants, turtle nack sweater, nylon jacket.
 - Q What color?
 - A The jacket?
 - Q Yes.
 - A Red. Maroon like.

- Q And what kind of shoes did you have on?
- A I don't recall.
- Q Did you have a hat on?
- A At times, I did, yes.
- Q Did you have a hat on at 5:50?
- A I don't recall if I had a hat on or not.
- Q Did you have a raincoat on?
- A At that time you are referring to?
- Q Yes.
- A I don't recall.
- Q How was the driver you were driving with, how was he dressed?

THE COURT: I take it you are going to be some time, Mr. Garry?

MR. GARRY: Yes.

THE COURT: I think we might as well take our afternoon recess now.

You are excused.

You may step down.

(The jury left the courtroom at 3:34 P. M.)

THE COURT: Prepare to recess.

Recess.

(The court recessed at 3:35 P. M.)

(Page 2216 follows - no omission)

(The court reconvened at 3:50 P. M.)

THE COURT: Bring in the jury.

(The jury entered the courtroom at 3:50 P. M.)

(The witness resumed the witness stand.)

THE COURT: All right, Mr. Garry?

MR. GARRY: Can I have the last question, and I don't think there's an answer.

THE COURT: Surely.

(The court reporter complied.)

THE WITNESS: Casual clothes, I don't recall exactly what they were.

CROSS EXAMINATION BY MR. GARRY (Continued):

- Q How was Mr. Landon dressed?
- A Mr. Landon had a black leather jacket on at that time.
- Q And what was his facial, how did his face look; did he have a beard or mustache, or clean-shaven, or what?
- A I believe he might have been clean-shaven, I'm not sure.
 - Q You don't know?
 - A I'm not sure.
 - Q How about Mr. Rory, did you see Mr. Rory that day?
 - A Yes, sir.
 - Q Did you see him, did you actually see Mr. Williams

at 6:00 or 5:50 P. M. on Monday night, Monday afternoon?

- A I believe that's the approximate time, yes.
- Q But you didn't see him, though, did you?
- A Yes, I did.
- Q You remember testifying in the McLucas trial, where you said you did not see him until 9:40?

A Well, he was subsequently identified later.

I didn't know him at the time.

Q Will you answer my question, Mr. Witness; didn't you testify in the McLucas trial that you did not see Mr. Williams until 9:40 P. M.?

MR. MARKLE: I don't think that's correct, your Honor.

MR. GARRY: Well, if it's not correct, he can answer the question.

THE COURT: Well, just take it easy.

MR. MARKLE: I'm speaking to the Court.

THE COURT: Do you have an objection?

MR. MARKLE: Yes, sir. I don't think it's correct.

THE COURT: Take it up on redirect.

THE WITNESS: No. I remember, I remember seeing him but not knowing him at that time, and I later identified him.

BY MR. GARRY:

- Q My question, sir, do you understand my question?

 My question is, didn*t you testify at the McLucas trial that
 you did not see Landon Williams until 9:40 P. M. in front of
 Battell Chapel?
 - A I might have, I don't recall.
- Q Let's go on to the next entry. The next entry that you had is, at 7:10 -- what are those "Lo.," "Mc."? What are those initials?
 - A Well, they are abbreviations, my abbreviations.
 - O What's that?
 - A "Lo. Mcl." -- period. Referring to Lonnie McLucas.
 - Q And this one (indicating), that's McLucas?
 - A Yes, an abbreviation.
 - O What's this word?
 - A "Enters."
 - Q "Enters 127 Hurlburt St.", right?
 - A Right.
- Q The next scene. Tell us about what you have for the entry for the next scene.
- A "9:40 P. M., Seale and party arrive at Battell Chapel.

 Tall colored male very close. Warren Kimbro seen there with

 Lonnie McLucas."
 - Q What is this tall -- tall, what?
 - A Colored male, an abbreviation for it.

- Q What does "very close" mean?
- A They impressed me, like he was acting like a bodyguard, concerned about staying close to Mr. Seale.
 - O How tall was he?
 - A Six-four, six-five.
- Q How close were you to the people that you had described?
 - A How close I was in footage?
 - Q Yes.
 - A I was in front of the Battell Chapel.
- O That doesn't answer my question. Do you understand
 "How close" means in footage?
- A Well, well, they walked within maybe 10 or 12 feet away from me.
 - Q And didyou see Mr. Kimbro?
 - A Yes.
 - Q Did he see you?
 - A I don't know if he saw me or not.
 - Q You went to school with Mr. Kimbro, didn't you?
 - A I did.
 - Q You don't know whether you talked to him or not?

 THE COURT: No, he didn't say that.

THE WITNESS: I didn't say that.

THE COURT: He said he didn't know whether he saw him or not, whether Kimbro saw him.

MR. GARRY: All right.

BY MR. GARRY:

- O Did you talk to Mr. Kimbro?
- A This particular time, no.

- Q Did you pass any salutations at all?
- 2221

- A None that I can recall.
- Q No signs of recognition to each other?
- A None that I can recall.
- Q You weren't trying to hide from him, were you?
- A No.
- Q And he wasn't trying to hide from you, was he?
- A Not that I know of, no.
- Q And from what you observed he wasn't trying to hide from you, was he?
 - A Not that I know of, no.
 - Q How about Mr. McLucas -- did you see him?
 - A Yes.
 - Q Did he see you?
 - A I don't know if he saw me or not.
 - Q Did you pass any signs of recognition to each other?
 - A No, sir.
 - Q Did you go in to hear Bobby Seale speak that night?
 - A No, sir.
- Q Now, you didn't stay there that whole period of time, did you?
- A The whole period of time? Of the speak? Of the speech you're talking about?
 - Q Yes.
 - A No.

- Q What did you do from 9:40 until the next entry that you have?
 - A I conversed with some of my men.
 - Q Where?
- A In the vicinity of College Street, Chapel Street, Elm Street.
- Q Were you in your car when you saw Mr. Seale and Mr. Kimbro and Mr. McLucas?
 - A No, I was out of my car at that time.
- Q Still dressed the way you heretofore described yourself?
 - A Basically the same, yes.
 - Q How were you dressed?
- A I had green pants on, a maroon, nylon jacket, and a turtle neck sweater, I believe.
 - Q What color?
 - A Black,
 - Q Did you have a hat on?
 - A I don't recall if I had a hat on at that time or not.
 - Q Did you have a raincoat on?
 - A Not at that time, no.
 - Q Was it raining?
 - A It started to rain then, yes.
- Q And was there a lot of people going into Battell Chapel?

- A Yes.
- Q How many people did you observe going in there?
- A I give you a rough estimate, maybe thirty, forty.
- Q You only saw thirty or forty people go in?
- A At this particular time, yes.
- Q How many people did you see coming out of the place?
- A Oh, maybe a hundred, or more.
- Q Were you trying to hide so that your identity as a police officer could not be known to Mr. Seale and Mr. Kimbro? And the parties that you have mentioned?
 - A No.
 - Q Positive?
 - A I'm positive, yes.
- Q So you didn't care whether Mr. Kimbro, or anybody else saw you making a surveillance on them, is that what you want this Court and jury to believe?
- A Well, at Battell Chapel there were numerous people there, and I had no reason to hide my appearance at that time.
 - Q How about on Hurlburt Street, at 5:50 and 7:10?
- A Yes, I was acting somewhat not to be detected at that time.
 - Q In other words, you were being sneaky about it?

 MR. MARKLE: Oh, I'm going to object, your

 Honor.

MR. GARRY: I'm not using this in a derogatory

term.

Q I mean, that was what you were trying to do, you didn't want them to know that you were, that you had the Party under surveillance, isn't that right?

A Not entirely, it's not entirely so. I didn't care if we were detected somewhat; but I didn't want them to think that the police were ready to move on them, or anything along those lines.

Q Well, my terminology, you were trying to sneak on them is a correct one, isn't it?

A Well, I don't -- I don't think it's correct, no.

Q What would you use?

MR. MARKIE: I'm going to object to this now, if the Court please.

THE COURT: Overruled.

MR. MARKLE: It's surveillance.

THE COURT: Overruled. He can describe it.

MR. MARKLE: May I have an exception?

THE COURT: Exception may be noted.

A I would use the terminology of police observations, or surveillance. There's nothing sneaky about it.

Q You were trying to hide yourself and show the person that you were surveying -- that you had under surveillance that you were actually, had them under surveillance?

You didn't want them to know, did you, or did you

want them to know?

- A I didn't care one way or the other at that time.
- Q Well, was there a time when you did worry about them?
- A About being detected?
- Q Yes.
- A Not really, no.
- Q So at no time you were worried about the fact that they would become aware that you had them under surveillance?
- A No, because I'm sure that they felt as though they were under surveillance.
- Q In other words, you felt that they knew you were --you had them under surveillance?
- A Not me, but I'm sure they knew they were being watched.
- Q Was that because you tapped their wires, and they talked about it?

MR. MARKLE: I'm going to object.

THE COURT: Do you have any basis for that, or are you just throwing those questions without any basis for it?

MR. GARRY: If your Honor please, if your Honor wants any basis I can give you some basis but I don't think it's germane to what I'm going.

THE COURT: Then don't ask that question.

MR. GARRY: Well, maybe I will ask that ques-

tion, and outside of the presence of the jury I'll tell you why.

THE COURT: I'll excuse the jury.

(Whereupon, the jury was excused at 4:00 P.M.)

MR. GARRY: Outside of the presence of the jury may I ask some questions of this witness?

MR. MARKLE: I'm going to object.

THE COURT: No. no.

MR. GARRY: I'm going to tell you why, your Honor, and I'm going to tell it to you in as concise a way as I can. We happen to know that the Federal Bureau of Investigation --

THE COURT: This man works for the -- at that time the Police Department of the City of New Haven.

MR. GARRY: I understand that. But he also was the head of the Intelligence Division of the Hew Haven Police Department.

THE COURT: That's right'

MR. GARRY: He's already testified that he had information that the Seale party was coming here.

THE COURT: That's right.

MR. GARRY: And I have every reason to believe that he knows what the Seale party was doing, what they were doing through intelligence sources through -- through wiretapping. It may not be his wire-

tapping, but it could be the wiretapping of the FBI.

THE COURT: No, I won't permit the question at all.

Gall the jury.

MR. GARRY: Take an exception.

THE COURT: Take an exception.

(The jury entered the courtroom.)

THE COURT: Go shead, Mr. Garry.

BY MR. GARRY:

Q What was your source of information as to how Mr. Seale was coming to New Haven, and approximately the time?

MR. MARKLE: I'm going to object.

THE COURT: It's been answered. Sustained.

MR. GARRY: Exception, your Honor.

THE COURT: Exception may be noted.

BY MR. GARRY:

Q All right. The next entry we have is --

A (Indicating)

Q -- is 11:15. Would you read what you have got written there?

A "Seale's party leaves Battell Chapel. Z" -- as in "zebra" -- "5080, and Kimbro car."

Q What does "5080" mean?

A That's the car that Mr. Seale and his party were using.

Q I thought you said he left in the Kimbro car?

MR. MARKLE: I'm going to object. He didn't say that, your Honor.

Q Read what you did say.

A "Seale's party leaves Battell Chapel. Z5080, and Kimbro's car." Meaning to me that was the car they were using.

Q Was that Kimbro's license number?

A Yes, yes.

Q Is that the car that Mr. Seale came to, at 127 Hurlburt at 5:50 P.M.?

A No. That, he used the New York car, Z5060, New York registration.

Q So that the automobile that Mr. Seale was in at 11:15 was the Kimbro automobile, is that right?

A No.

Q It wasn't? Whose car was it? Is that what you said, the Kimbro car?

A No, that's -- Kimbro's car was also used. It was entered and occupied by other members of Seale's party at that time.

- Q Is that what that says?
- A That's what it means to me. Those are my notes.
- Q Read your notes just exactly the way they are without any interpolation.
 - A Well, I have to interpolate, Mr. Garry.
 - Q Now, just read me what you've got written down.
- A "Seale's party leaves Battell Chapel. 25080" in Kimbro's -- "and Kimbro car."
 - Q That's a "and," is that right?
 - A Yes, two cars used.
 - Q And who was driving the Kimbro automobile?
 - A I don't recall.
 - Q Who was driving the other automobile?

- A At that time, I don't recall who was driving it.
- Q What did the Seale automobile do?
- A It drove off.
- Q Did you follow it?
- A Yes. We had it under observation, but not what we call "following" actually.
 - Q My question is, did you follow it?
 - A No.
- Q And when did you next see -- what's the next entry that you have?
- A Approximately five minutes later. "11:20 P.M.: Both cars" arrive "at 365 Orchard" Street. "Seale's party seen enter" -- referring to the Panther headquarters.

BY MR. GARRY:

- Q All right. Let's take it right from there.
 Orchard Street is a one-way street?
 - A No, sir.
 - Q Two-way street?
 - A Yes.
 - Q Is there parking on both sides of the street?
 - A No, sir.
 - Q Just parking on only one side of the street?
 - A That's correct.
- O There is no parking on the side of the street where 365 Orchard Street is located, is that right?
 - A That's right.
- Q How many cars did you see at 365 Orchard Street at 11:20 P. M.?
 - A Oh, three or four.
 - Q And where were they parked?
 - A On the wrong side of the street.
 - Q On the wrong side of the street?
 - A Yes, sir.
- Q And these three or four cars were parked directly in front of the archway at 365 Orchard Street, werethey not?
- A In that vicinity. They can't all fit in front of the archway.
 - Q There was at least one car in front of 365 Orchard

Street, that archway, was there not?

- A I believe there was two in the vicinity of that archway.
 - Q Two?
 - A Yes, if I remember right.
- Q Now, that archway, so the jury can follow us, that archway is about 18 feet wide, 16 to 18 feet wide, is it not?
 - A Approximately, yes.
- O What kind of an automobile was Mr. Seale's party in?
 - A *69 Dodge.
 - Q And that's a car about 15 to 18 feet long?
 - A Approximately, maybe a little less.
 - Q Less than 15 feet?
 - A Probably so.
 - Q Is it a two door or four door?
 - A I don't recall.
 - Q What color was it?
 - A Green.
 - Q Dark green or light green?
 - A Medium: not dark, not light, in between.
- O Now, where were you -- strike that. If the Seale automobile -- strike that again.

Was Mr. Kimbro's automobile parked on the wrong side of the street also?

- A At that time, it was. There were people, like, unloading at that time, yes.
 - Q And you drove by on Orchard Street?
 - A I didn't hear the question.
 - Q Did you drive by Orchard Street, 365 Orchard Street?
 - A When, sir?
 - Q At 11:20.
 - A I had been there at 11:20. I had arrived there.
 - Q Were you stopping?
 - A Yes.
 - O Where?
- A Right opposite 365. In the vicinity of 366, across the street.
 - Q In your car?
 - A Yes.
- Q Were you parked on the wrong side of the street, too?
 - A No.
 - Q You were going in the opposite direction?
 - A That's right.
 - Q Were you parked in a normal parking place?
- A Yes, there was a parking space there. It might have been a driveway or something.
- Q Let's take the sequence of time, sir. You testified that at 11:15 you were at Elm and what street?

- A College.
- Q College. How far is the distance between Elm and College to the area of 365 Orchard Street?
 - A Haybe ten blocks or so.
 - Q Ten blocks. Did you have your siren open?
 - A No.
- Q Were there two automobiles, the Kimbro automobile, the New Work car, were they already parked when you arrived there?
 - A Mo.
 - Q And you arrived ahead of them?
 - A Yes.
 - Q Who was driving?
 - A Driving my car? Sergeant Carrieri.
- And it is your testimony that you parked in --strike that.

Did you drive in backwards to park or did you just drive into an open space without having to find a parking space?

- A Well, we arrived there and drove in. I don't recall the particulars about parking the car.
- Q And then two cars drove right in front of the archway?
 - A Yes.
 - Q What was the lighting like at that time?

- A Street lighting plus the housing complex lighting in that area.
 - Q Did you have your flashlight?
 - A Did I have my flashlight?
 - Q Yes.
 - A Not with me, no.
 - Q What kind of a car does Mr. Kimbro have?
 - A I don't recall.
 - Q Two door or four door?
 - A I don't recall.
 - Q How was Mr. Kimbro dressed?
 - A He was wearing the military garb.
 - Q Shirt?
 - A Yes,
 - Q What kind of a shirt did he have on?
 - A I don't recall.
 - Q Did he have a hat on?
 - A I don't know.

BY MR. GARRY:

- Q How long did you remain at --
- A At Orchard Street?
- Q Yes.
- A About ten minutes or so.
- Q You didn't remain there ten minutes at all. As a matter of fact, you didn't stop there at all, did you, sir?
 - A Yes, I did.
- Q You were trying to avoid being seen, isn't that right, sir?
 - A No.
 - Q It isn't?
 - A No.
 - Q You were only making spot checks, isn't that right?
 - A That's right.
- Q What does "spot check" mean in the language of surveillance of the police department in New Haven?
- A Well, it means that you have an idea of what to anticipate on the activity, and once you verify that, you move on.
 - Q You verify what?
 - A The anticipated movement.
- Q Butyou try not to be seen by the parties that you have under surveillance, isn't that correct?
 - A Well, you try but it's not that important if you are

detected.

- Q Were you detected?
- A Possibly, I don't know.
- Q Did Mr. Kimbro see you and say, "How are you, Pas-tore"?
 - A Not that I can recall.
- Q Or Nicky. He calls you Nicky. What does he call you?
 - A Calls me Nick, yes.
 - Q He calls you Nicky, doesn't he?
 - A Nicky. He might have, I don't know.
- Q A spot surveillance is a moving surveillance, isn't it, sir?

MR. MARKLE: I object. We just went over it.

THE COURT: He told you what it is. You asked him what it is in New Haven, Connecticut, and he told you.

MR. GARRY: What did he tell me?

THE COURT: Read it back. Read Mr. Garry's question and the following answer back.

(The requested question and answer were read by the court reporter.)

BY MR. GARRY:

Q Isn't spot surveillance, doesn't it mean it is a moving surveillance?

MR. MARKIE: I am going to object. That's what he just said.

MR. GARRY: That's not what he said.

MR. MARKLE: That may be, but I object.

THE COURT: Do you want to ask him if he ever described it as a moving surveillance?

Is that what you are driving at?

MR. GARRY: I am going to ask him that next.

I want to wait to see what he is going to say to this question first.

THE COURT: I will sustain the objection to this question because he answered your question:

BY MR. GARRY:

- Q Did you ever say in response to Mr. Markle when he asked you, what is a spot surveillance -- you recall that in the McLocas trial?
 - A Somewhat, yes.
- Q And do you recall telling him, it's a moving surveillance?
 - A Yes, you are mobilized.
- Q And you also stated, did you not, that, basically, you use a spot surveillance because you don't want to be detected, didn't you tell him that?
 - A Yes. It's there.

MR. MARKLE: Can he see what --

- Q You did say that?
- A If it's there, I said it. What's the point?
- Q Well, did you say it?
- A Yes.
- Q And you also stated, at that time that you wanted to change the general appearance of your automobile each time so that they don't detect you, is that right?
 - A That's right.
- Q And you also stated that you want to change the operator's of the automobiles so you don't get detected, isn't that correct?
 - A Yes, we change the appearance of the operators, yes.
- Q And you also stated that this is kind of a hit and run operation?
 - A That's right.
- Q And that's what you were doing on that night, isn't that right?
 - A That's correct, stop and go.
 - Q Hit and run?
 - A Stop and go, too.
 - Q Hit and run?
 - A Yes,
 - Q "Hit" means you go there and take off, right?

 MR. MARKLE: If the Court please, it's been answered.

BY MR. CARRY:

Q Now, where were you actually, what address were you at when you said you made a stop on Orchard Street, what was the address?

THE COURT: You are talking now about when?
MR. GARRY: 11:20, your Honor.

- A I was parked in the vicinity of 366 Orchard.
- Q You said you saw the party depart from their automobile?
 - A Yes.
 - Q Who got out of the automobile?
 - A Bobby Seale, Landon, Rory and others.
- Q You never saw Landon get out of the automobile, did you?
 - A Yes.
 - Q You did, Sure?
 - A Positive.
- Q Where does it say that you saw Landon, in your notes, get out of the automobile?
- A I made reference to him as being part of Seale's party.
- Q You didn't know Mr. Williams from a bundle of water-melon seeds?
- A That's why I made reference to him as part of Seale's party.

- Q How many were in his party?
- A At that particular time?
- Q Yes.
- A About four.
- Q It doesn't say so, does it?
- A No, but it refreshes my memory.
- Q All together there were four?
- A Approximately, that's all I seen at that time.
- Q How many were in the other car?
- A Five or six.
- Q Who was in the other car?
- A Warren, I think, and Lonnie and some others.

BY MR. GARRY :

- Q You don't have any notes as to what was in Warren's automobile, do you?
 - A No. I have both cars arrive at 365 Orchard Street.
 - Q But you don't have a single name there, do you?
 - A No, but I was there.
- Q And two years later you are telling us, while you are making these hit and runs --
 - A Yes.
 - O -- as to who was there?
 - A That's correct.
- Q You are always going backwards as to what you remember subsequently, but you did not know at the time who these people were?

MR. MARKLE: I am going to object to this.

THE COURT: Overruled.

BY MR. GARRY:

- Q Did you know that there was a Mr. Alex Rackley in the house at 365 Orchard Street at the time that you were there at 11:20?
 - A I did not.
 - Q How long did you remain -- strike that.

How long was it before Mr. Seale and his party came from the area of 365 Orchard Street?

A I don't know in time span. I didn't see him leave

or exit from the premises.

- Q You have no records of it?
- A I didn't see him leave.
- Q I said, you have no record of it?

THE COURT: He said he didn't see him leave, so how could be have a record, Mr. Garry?

BY MR. GARRY:

Q When did you -- strike that.

How far is the distance from where you were -- strike that again.

Did you get out of your automobile at 11:20 at night on Orchard Street?

- A No, I don't recall getting out.
- Q Was it raining at that time?
- A I think it had stopped, but I'm not sure.
- Ω As a matter of fact, it was pouring down at the time, wasn't it, at that time?
 - A Well, if you say so. I don't know.
 - Q Did you have your car window up or down?
- A I don't recall. I'm sure it was down. I don't recall exactly.
 - Q Where were you seated?
 - A On the passenger's side of the car.
 - Q Which way was the car headed?
 - A South.

- Q How far is it from where you were seated or where you were in your automobile to where the steps were at 365 Orchard Street?
- A The steps -- that's within the archway you are talking about, the approach to the apartment, I assume?
- Q Now many steps are there as you go in through the archway there?
 - A There is a set of two and a set of seven.
 - Q These steps are seven steps high?
 - A That's correct.
 - Q And there is a series of them. Isn't that kind --
 - A It's kind of in a hectagon shape.
- Q How far away were you when you first -- in your automobile -- when you first spotted those steps, or did you spot those steps?
- A I was across the street when Seale and his party exited from the car. A matter of the width of the street.

 25 feet, maybe.

BY MR. GARRY:

- Q How far is it from there to the steps?
- A I would say approximately another 25 feet, so it's 50 feet total from the place I was parked to the steps.
- Q Would you say from the sidewalk, the gutter sidewalk on Orchard Street to the steps would be at least 75 feet?
- A What side of the street? What gutter, my side or Mr. Seale's side?
 - Q The other side.
 - A 75 feet?
 - Q Yes, sir,
 - A I would approximate it. You're not far off. Right.
 - Q And another 25 feet to you, so it would be 100 feet?
 - A I estimated it about 90 feet.
- Q 90 feet. And how wide are the steps up on top after you walk the seven steps, how wide is it there?
 - A The landing?
 - Q The platform.
- A Well, once you reach the top of the steps, the door to the apartment is right there.
 - Q That's not true, is it?
 - A Matter of a couple of feet, a couple of steps.
 - Q That isn't true, either.
 - A Sure, it is.
 - Q Isn't the platform about 20 feet after you get up



the seven steps?

- A I don't think it's 20 feet.
- Q Ever been there?
- A Yes, sir.

MR. GARRY: I would like to mark this for identification, if your Honor please.

THE COURT: Both cases?

MISS RORABACK: Yes, it's for identification.

THE COURT: It's No. 10 in the Seale case, and No. 6 in the Huggins' case, for identification only.

(The photograph referred to was marked as DEFENDANT SEALE'S EXHIBIT 10 FOR IDENTIFICATION and DEFENDANT HUGGINS' EXHIBIT 6 FOR IDENTIFICATION, respectively.)

BY MR. GARRY:

Q I show you here Defendants' Exhibit for Identification No. 10, and ask you if you have ever seen that picture before?

(Photograph shown to witness.)

- A You mean the picture or the contents?
- Q The picture.
- A I don't recall seeing this picture before.
- Q Didn't you have it in your hands on the McLucas trial?
- A I might have. I just don't recall.

- Q Have you ever seen the contents of it before?
- A It resembles the 365 Orchard Street area.
- Q Would you tell the Court and jury what that picture depicts?
 - A It looks like the exterior of the housing complex.
- Q And would you mark the area we call the archway that we have been talking about?
 - A Would you like me to mark it?

THE COURT: Don't mark anything. Don't mark it yet.

It is not an exhibit. It is only for identification, anyway.

THE WITNESS: Can I point it out, your Honor?

THE COURT: You can point it out to Mr. Garry.

THE WITNESS: This area here. (Indicating)

BY MR. GARRY:

Q And there were automobiles parked along the wrong side of the street at the time. You said there were at least three or four, is that right?

MR, MARKLE: I am going to object. I don't think he did.

MR. GARRY: Well, this is cross-examination.

If he doesn't he can say he doesn't.

MR. MARKLE: He should state what he stated.

THE COURT: I think he testified that three or

four cars pulled up, and that two of them were parked in the vicinity of the archway.

MR. MARKLE: Yes, sir.

Yes, I testified to that, that the cars pulled up A on the wrong side of the street.

0 That picture only shows the layout of the archway and the 365 area buildings, but it doesn't show the condition of what the cars were at night at 11:20, do they?

> MR. MARKLE: I object. It is an exhibit not in evidence.

> > I don't see the relevance. I object.

MR. GARRY: How do I lay a foundation to get the picture in?

THE COURT: Why don't you show it to him and see if he has an objection.

> It is only a picture of the building, that's all. Isn't that it?

MR. GARRY: Yes.

THE COURT: There is no claim, I take it, as to the cars or the movable objects, that they were there on the night of the incident, he doesn't make that claim at all.

MR. MARKLE: If the claim is made just for the outside, I have no objection at all.

MR. GARRY: I offer this into evidence your

Honor.

THE COURT: Full exhibit. No objection.

10 is a full exhibit. Cross off the identifi-

MISS RORABACK: Mine is still for identification, your Honor.

THE COURT: You want it for identification only?

MISS RORABACK: Yes.

THE COURT: All right.

(Defendant Seale's Exhibit 10 for Identification was received in evidence as DEFENDANT SEALE'S EXHIBIT 10.)

MR. GARRY: May I have the witness mark on the exhibit --

THE COURT: He may not mark any exhibit, at least in this State.

You can point out anything you want to, but you may not mark it, Mr. Garry.

MR. GARRY: Yes.

THE COURT: The Supreme Court has specifically held that.

MR. GARRY: I will hold to whatever your rules are. We mark our exhibits.

THE COURT: Here is a pencil with an eraser on the end of it.

MR. GARRY: I can use this.

BY MR. GARRY:

Q Would you show the Court and jury the archway.

(The witness complied.)

THE COURT: You may step down there so the jury doesn't have to crane around, Mr. Pastore.

(The witness stepped in front of the jury and indicated on the exhibit.)

THE COURT: All right.

(The witness resumed the stand.)

BY MR. GARRY:

Q And that archway is about 16 feet wide?

- A Approximately.
- Q And would you show to the Court and jury where the two automobiles were in relationship to the archway?
- , A Parked near the curb opposite the archway, in that area.

(Indicating)

- Q On the part where it says, "No Parking"?
- A Well, that's a no-parking side of the street, right.

 MR. GARRY: May I pass this around to the
 jury, your Honor?

THE COURT: Surely.

(The exhibit was handed to the jury.)

THE COURT: All right, I think this is as good a point to break, Mr. Garry, as any.

Ladies and gentlemen, you may retire now.

I want to tell you something that you will probably like to know so you can make your own plans. We will not sit next Priday. One of the counsel has a long-standing engagement that he told me about before we ever started the trial and I promised him that I would let him keep it, so we will not work Priday and, of course, we will not work next Monday either.

On Thursday, what I plan to do, if it works out, is to work straight through from 2:00 to 4:00 rather

than have that afternoon break but, again, if anybody wants a recess, let me know.

Those are our plans for the rest of the week, ladies and gentlemen.

How, I will repeat what I have said before.

Stay away from news reports, either on radio or television or any reports in the press or in periodicals, as far as they are concerned, concerning this case, the Panther Party, any of the principals involved, anything even remotely connected with it and, of course, no conversations with anybody about those matters.

Once again, each day we hear a little bit more. We will wait until it is all in before we start deciding what happens.

Good night. Safe home. See you in the morning.

(The jury was excused at 4:30 P.M.)

THE COURT: All right, we will prepare to recess.

Adjourn court, Mr. Sheriff, until tomorrow morning at 10:00 o'clock.

(The court adjourned at 4:34 P. M.)

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Name	Direct	Cross	Redirect	Recross
GEORGE SAMB, JR. (By Miss Roraback) (By Mr. Markle) (By Mr. Garry) (By Miss Roraback)		2066	2134	2148 2153
ROBERT R. LYMAN (By Mr. Merkle)	2161			9 a
WICHOLAS PASTORE (By Mr. Markle) (By Mr. Garry)	2163	2129		

EXHIBITS FOR THE STATE

NO.	DESCRIPTION	FOR IDENT.	IN EVID.
.68	Statement of George Same dated August 15, 1969	2134	
	Statement of George Same dated August 21, 1969	2139	ž.
	Page 1283 of McLaces trial tresscript		21.56
**	Transcript of testimony of Bobby Seal in the McLacas trial dated 8/21/70 (In Scale case only)	2161	2163
	Interview of Scale in Black Feather paper (In Scale case only)	2101	2165
XX.	Interview of Scale in San Francisco Chronicle by Tom Findley (In Scale case only)	2181.	2167

EXHIBITS FOR THE DEFENSE

NO.	DESCRIPTION	FOR IDENT.	IN EVID.
¥	DEFENDANT SEALE'S EXHIB	ITS	
9	Notes of Nicholas Pastore		2198
10	Photograph	2246	2249
,			
Ý	DEFENDANT HUGGINS BYHY	BIZ	ā
. 6	Phetograph	2246	3.

NO. 15681

STATE OF CONNECTICUT

vs.

ERICKA HUGGINS

NO. 15844

STATE OF CONNECTICUT

vs.

BOBBY G. SEALE

SUPERIOR COURT

NEW HAVEN COUNTY

APRIL 28, 1971

SUPERIOR COURT

NEW HAVEN COUNTY

APRIL 28, 1971

Before:

HON. HAROLD M. MULVEY, Judge & Jury (12)

Appearances:

ARNOLD MARKLE

State's Attorney, New Haven County 121 Elm Street New Haven, Connecticut

CATHERINE G. RORABACK 129 Church Street New Haven, Connecticut

> Representing the defendant Ericka Huggins

CHARLES R. GARRY, ESQ. 341 Market Street San Francisco, California

- and -

DAVID ROSEN, ESQ. 865 Chapel Street New Haven, Connecticut

Representing the defendant Bobby G. Seale

COURT REPORTERS:
Arthur E. Moan, Jr.
Walter Rochow

David Tilewick

MORNING SESSION

Wednesday, April 28, 1971

(The court opened at 10:05 A.M.)

THE COURT: All set, counsel?

MR. MARKLE: Yes.

MR. GARRY: Ready.

THE COURT: Call the witness.

NICHOLAS

PASTORE,

having previously been duly sworn, resumed the witness stand and testified further as follows:

THE COURT: Call the jury, Sheriff.

(The jury entered the courtroom at 10:06 A.M.)

THE COURT: Good morning, ladies and gentlemen.

All right, Mr. Garry.

Would you like the last question read? I think you had just finished with that picture. That's where you were at that point last night.

MR. GARRY: I believe I showed him pictures.

THE COURT: That's right.

All right.

CROSS-EXAMINATION BY MR. GARRY (Continued):

Q Between the time of your being on the witness stand, Mr. Witness, and up until about 6:30, you sent someone out to take a photograph there, did you not, at the premises?

MR. MARKLE: I object.

THE COURT: Just a moment.

I don't understand the question.

Would you read it, Mr. Reporter.

(The last question by Mr. Garry was read by the court reporter.)

BY MR. GARRY:

Q Last night?

MR. MARKLE: I did that, if the Court please.

MR. GARRY: I don't think he has to testify,

your Honor.

THE COURT: He can say he did.

You are asking the question. You are talking about yesterday afternoon?

MR. GARRY: Yes, after we adjourned here.

I think I am entitled to ask these questions of this witness.

THE COURT: Answer it, Mr. Witness.

BY MR. GARRY:

Q You sent someone out there?

A No.

- Q Who did you send out there?
- A I just answered, "No."
- Q You didn't send anyone out there?
- A No, sir.
- Q What is your roll, by the way? What is your duties -- what are you duties?
 - A As a county detective?
 - Q Whatever you are doing.
- A I am working with the State's Attorney's office in the capacity of a county detective.
- Q And you work for that man back there who is prosecuting this case?
 - A Mr. Markle being "that man"?
 - Q That man right there. Yes.
 - A That's Mr. Markle, yes. I work with him.
 - Q Any doubt about the fact that that's Mr. Markle?
- A That man you are referring to? There is a man sitting next to him. I work with him also.
- Q Do you work for Mr. Markle in the State's Attorney's office?
 - A Yes, sir.
 - Q And you take orders from him, isn't that right?
 - A Yes, sir.
- Q And your job depends on his good will to you, isn't that right?



MR. MARKLE: I am going to object to this because the Court knows the appointment powers, your Honor.

THE COURT: Go ahead.

BY MR. GARRY:

- Q Can I have an answer to that question?
- A May I have the question again, please?

 THE COURT: It may be read.

(The previous question by Mr. Garry was read by the court reporter.)

- A I have never interpreted it in that light.
- Q You don't have any civil service status in that job, do you?
 - A No, no civil service status.
- Q Now, at the time of May 19, 1969, what was your rank in the police department?
 - A I was a Sergeant at that time.
- Q When you testified in the McLucas trial a year ago, approximately a year ago, what was your rank then?
 - A I was a Deputy Chief Inspector.
- Q So you had gotten a raise, increase in prestige, between the time of May the 19th up until the time you testified?
 - A I had gotten a raise and a promotion.
 - Q When did you get this job of working for the

State's Attorney that's prosecuting this case?

- A November of '70.
- Q And you have been on the job since November of 1970, is that right?
 - A Yes, sir.
- Q Where is that picture that was taken by your office last night?
 - A Right here, sir.

(Indicating)

Q Let's see it.

(Photographs were handed to Mr. Garry.)

MR. GARRY: I put these in for identification, if your Honor please.

THE COURT: How many are there?

MR. GARRY: Four.

THE COURT: 11, 12, 13 and 14.

Do you join in that?

MISS RORABACK: I just want to take a look at them.

THE COURT: All right.

MISS RORABACK: Yes, I will join in the marking for identification only.

THE COURT: 7, 8, 9 and 10 in the Huggins case.

(Four photographs were marked DEFENDANT SEALE'S

EXHIBITS 11, 12, 13 and 14 FOR IDENTIFICATION, and

DEFENDANT HUGGINS' EXHIBITS 7, 8, 9 and 10 FOR

IDENTIFICATION, respectively.)

BY MR. GARRY:

O I show you Defendant's Exhibit No. 11 for Identification. It came in an envelope that you have heretofore testified to. Had you seen those four photographs prior to the time that I showed it to you now?

THE COURT: Wait. First you said you showed him Defendant's Exhibit 11 for Identification.

Now, you are talking about four pictures and they are not identified as far as numbers are concerned.



THE COURT: They are 11, 12, 13 and 14.

BY MR. GARRY:

O Showing you 11, 10, 9 and 8, had you seen them prior to the time --

THE COURT: Wait a minute.

Let me see those for a moment.

11, 12, 13 and 14 in your case. In

Miss Roraback's case, they are 7, 8, 9 and 10.

All right.

MR. GARRY: I'm sorry.

BY MR. GARRY:

- Q Had you seen those before I showed them to you this morning?
 - A Yes, sir.
 - Q When did you see them for the first time?
 - A This morning.
 - Q Who showed it to you?
 - A The State's Attorney.
 - Q Who was that?
 - A Mr. Markle.
- Q When was it that you were at the premises last at 365 Orchard Street?
 - A I haven't been to the premises --
 - Q My question was, when were you there last?

- A I'm trying to think. Since the investigation of the Rackley homicide, be May 22nd, 23rd of 1969.
 - And you haven't been there since?
 - A Haven't been to the premises, no.

THE COURT: Let's get squared away as to what the premises mean. Do you mean in the apartment or in the neighborhood or just what, just so that there is no problem later on.

BY MR. GARRY:

Q What do you mean by --

THE COURT: Tell him what you mean, and then he can enswer your question.

BY MR. GARRY:

Q When I say, "the premises," I am talking about Oxchard Street, at 366 and 365, in that particular street area.

MR. MARKLE: Unless we can clear it up. I am confused. Does he mean in the apartment or on the street or in that area?

THE COURT: I think he just said Orchard

Street in the vicinity of 365 and 366. At least I

understand him to mean outside, not in the apartment.

MR. MARKLE: All right.

THE COURT: Is that correct, Mr. Garry?

MR. GARRY: That is correct.

THE WITNESS: I have been in that area on numerous occasions.

BY MR. GARRY:

- O My question was, when were you there last?
- A I don't recall.
- Q You were there last night?
- A I was not.
- Q You were there the night before?
- A I was not.
- Q Were you there in the afternoon before?
- A Not that I recall.
- Ω You would know whether you were or not, wouldn't you?
 - A I wasn't at this location on Orchard Street.
- Q Were you on that whole block, the 300 block on Orchard Street?
- A I might have been. I don't recall. I often use that route of travel.
 - Q Did you use it this morning?
 - A No.
 - Q Did you use it yesterday?
 - A I might have been in that area yesterday.
- Q Would it surprise you if you were seen at that premises, in that street, in that block yesterday?
 - A At Chapel and Orchard Street? That would surprise

me, yes.

- Q How about the day before?
- A It would surprise me if I was seen in the vicinity of 365 Orchard Street.
 - Q I am talking about the 300 block on Orchard Street.
- A Well, that wouldn't surprise me. I often take that route of travel, Orchard Street, Chapel Street.
 - Q So you go right by 365 Orchard Street, don't you?
 - A I have many times, yes.
 - Q And you did yesterday?
 - A No, no, I didn't.
 - ? How about the day before?
- A I don't recall going by 365 Orchard Street the day before.
- Q Do you recall going by the 300 block on Orchard Street yesterday?
 - A Not precisely, no.
 - Q Not precisely?
- A No. I might have been in the area but I don't remember going by 365 Orchard Street.
- Q My question is, did you drive in the block of where the 300 block is on Orchard Street?
 - A I don't recall driving in the block, precisely.
- Q You don't remember what you did yesterday in this regard, is that right?

- A Not as to this particular incident. The day before yesterday you are referring to?
- Q Let's take the day before yesterday. How about the day before yesterday?
 - A Uh-huh.
 - Q You did go there?
 - A Go where?
 - O The 300 block on Orchard Street.
 - A I said I don't recall going there.
- Q Is that because you have so much on your mind you wouldn't remember whether you were in that 300 block?

MR. MARKEE: I object, if your Honor please.

THE COURT: Overruled.

THE WITNESS: No, that's not true. I just don't recall going there the day before yesterday. BY MR.GARRY:

Q Do you recall going there yesterday on the 300 block on Orchard Street?

MR. MARKLE: I object.

THE WITNESS: No, sir.

THE COURT: It's been answered again. He said, "No, sir."

BY MR. GARRY:

O Did you take any notes regarding the premises yesterday? When I say, "the premises," I am talking about the

outside perimeter.

A No, sir.

MR. GARRY: I have two more pictures I am going to put in for identification.

THE COURT: 15 and 16.

Miss Roraback, you join?

MISS ROPABACK: For identification, yes, sir.

THE COURT: All right. That would be 11 and 12 in the Huggins case, for identification only in both.

(Two photographs were marked DEFENDANT SEALE'S EXHIBITS 15 and 16 FOR IDENTIFICATION, and DEFENDANT HUGGINS' EXHIBITS 11 and 12 FOR IDENTIFICATION, respectively.)

BY MR. GARRY:

Q I show you 15 and 16 of Defendant's Exhibits for Identification, and ask you if you recognize the contents of those two pictures?

(Exhibits shown to witness.)

- A Yes, sir.
- Q And what do they depict?
- A The housing complex at 365 Orchard Street.
- Q On both of them?
- A One depicts Apartments 13 and 14 of that address.

 It appears to be those apartments, anyway.

- Q And it also has the platform, does it not?
- A Yes.
- Ω And there is seven steps that lead up to the platform?
 - A That's correct.
- Q When were you at that particular stene where the steps are last?
- A It was during that Rackley homicide investigation that I was there last.
 - Q You haven't been there since?
 - A Not that I can recall.

MR GARRY: At this time, if your Honor please, I want to put all of these exhibits into evidence.

That would be the ones that were taken yesterday --

THE COURT: 11, 12, 13, 14, 15, 16.

MR. GARRY: 10.

THE COURT: 10 was offered yesterday as a full exhibit.

MR. GARRY: It was?

THE COURT: That's right.

MR. GARRY: Excuse me. I get these two defendants mixed up.

THE COURT: Show them to counsel.

MR. GARRY: 11, 12, 13 and 14.

THE COURT: How about 15 and 16?

MR. GARRY: And 15 and 16.

THE COURT: Show them to counsel.

(Mr. Garry complied.)

MR. MARKLE: No objection, your Honor.

THE COURT: Miss Roraback.

MISS RORABACK: I would just have them marked for identification in my case.

THE COURT: Full exhibits in the Seale case, and still for ident only in the Huggins case.

(Defendant Seale's Exhibits 11, 12, 13, 14, 15 and 16 for identification were received in evidence as DEFENDANT SEALE'S EXHIBITS 11, 12, 13, 14, 15 and 16:)

BY MR. GARRY:

Q I believe you testified yesterday, Mr. Witness, that the automobile that you were in -- you were sitting on the passenger's side -- the automobile was driven by another police officer, and you parked in the driveway at 366.

THE COURT: Oh, I don't --

MR. MARKLE: I'm going to object to that.

He didn't say that.

THE COURT: No. He said he pulled over to the curb, as I recall; he said there might have been a driveway there, he didn't know.

MR. GARRY: Well --

THE COURT: But he didn't pull in the driveway, if that's what you're inferring. There was no testimony of that.

BY MR. GARRY:

Q Did you pull your automobile, or the automobile you were riding in as a passenger, did it pull into the driveway, what appeared to you to be a driveway at 366 Orchard Street?

A I don't recall if there was a driveway in that area or not. There might have been. I don't recall seeing a driveway.

- Q So that's where you parked?
- A In that vicinity?

Q What appeared to you to be a driveway?

THE COURT: Oh, he didn't say that, Mr. Garry, he didn't say that.

MR. GARRY: Well, I have his testimony, and I'm willing to stand on what he said yesterday.

MR. MARKLE: Well, then, I'd --

THE COURT: He didn't say it right now. He didn't say it.

BY MR. GARRY:

Q Did you say, when I asked you the question yester-day, "Were you parked in a normal parking place?" Did you answer that question and say, "Yes, there was a parking space there. It might have been a driveway or something."

MR. MARKLE: Well, I'm going to object. That's exactly what he just testified to.

THE COURT: That's exactly what he said.

MR. GARRY: I'm not disputing what he said, your Honor. I'm trying to find out whether there was a driveway there that he's talking about, and I have a reason for that.

THE COURT: I understand, I think I know what you're talking about but I have a duty, too. I think what the man is trying to tell you, there might have been the mouth of a driveway at the place where he parked alongside the curb, that's

what he's trying to explain to you.

You asked him whether it's a legal place?

It isn't legal to park in front of the entrance of somebody's driveway. That's what he's trying to explain to you.

MR. GARRY: Well, if your Honor please, I don't like to take issue with the Court but I didn't use the word "legal" at all. I said "normal."

THE COURT: All right, "normal." I said "legal," and I take it back, and I say "normal."

MR. MARKLE: May we have the page he just read from, your Honor?

MR. GARRY: 2233.

BY MR. GARRY:

Q Was it in a parking -- a driveway that your car was parked in?

MR. MARKIE: I object. Yesterday he said they parked near the curb, opposite the archway, in the area. That's exactly what his testimony was. That's 2251.

We are going over the same thing.

THE COURT: I'll let it go in, if he thinks it's that important.

THE WITNESS: May I have the question?

(The court reporter complied.)

THE COURT: I don't even know if that's a question. Would you rephrase it.

BY MR. GARRY:

Q Was your automobile parked along the driveway on Orchard Street in the 366 --

THE COURT: I suggest you rephrase that one, too, so there's no misunderstanding about what you're talking about. I don't know how you park along a driveway. Now, rephrase it so that there's no misunderstanding as to what you mean.

BY MR. GARRY:

- Q You know what a "driveway" is, sir?
- A Yes.
- Q Is there a driveway at 366 Orchard Street?
- A I would assume so, but I can't say specifically so.
 I would assume.
 - Q Did you park your automobile on that driveway?
 - A I don't recall parking on the driveway, no.
- Q Then, what do you mean yesterday, "driveway," in your answer?

MR. MARKLE: I'm going to object, if the Court please. He was asked if there were -THE COURT: Overruled.

MR. MARKLE: Might I have an exception?

THE COURT: Exception noted.

- A What I mean is, that there's usually a driveway associated with a house, and there might have been a driveway in the area.
- Q And it might have been that you might have parked your car alongside of that driveway, is that right?
 - A I don't think so.
 - Q Why did you mention it yesterday?
 - A I just explained that.
 - Q Explain it again.
- A That usually a driveway is associated with a house, and there might have been a driveway in the area.
- Q I show you Defendants' Exhibit No. 13. (Handing to the witness) The driveway would be on the right side of that archway, would it not, in that picture?
 - A What driveway are you talking about?
 - Q This, this is an arch, you understand that?
 - A Yes.
- Q And the driveway would be across the street, that would be on the right hand side of the picture, would it not?
 - A What driveway are you referring to?
- Q The driveway at 366 Orchard Street, the one across the street.
 - A I have no idea.
- Q If you were standing where I'm standing in this picture, Defendants' No. 13 in evidence, would the driveway

be on the left hand side as you would be looking, or would it be on the right hand side, the driveway for 366 Orchard Street?

MR. MARKLE: I'm going to object.

THE COURT: Overruled.

A I have no idea.

MR. GARRY: May I have those exhibits shown to the jury, your Honor?

THE COURT: Surely. I think you ought to have him explain, as to what they are. I think there's only been one that the witness has ever had anything to say about. Why don't you just run them through, and see if he can explain them.

BY MR. GARRY:

Q Lift it up to the jury so they can see it, and tell us what that exhibit number --

THE COURT: Which one are you referring to?

MR. GARRY: 13.

- Q -- depicts.
- A That's the archway and steps leading to Apartment 13 at 365 Orchard Street.
 - Q And how about No. 14?
 - A Somewhat the same shot, the same area.
 - Q How about No. 11?
 - A This is a close-in, within the archway. Those are

the steps where Mr. Garry is standing, leading to Apartment 13.

Q How about No. 12?

THE COURT: Who did you say, "Mr. Garry?"

(The exhibit was handed to the Court.)

THE COURT: You look mad. All right.

A This is the same archway at 365, leading to Apartment 13. The distance, it's a street shot from the opposite side of the street.

Q How about No. 16?

A It's taken from the base of the steps up to Apartment 13 and 14, 13 then being the apartment of Panther headquarters in New Haven.

Q All right. I show you No. 15.

A No. 15 being the exterior of the housing complex at 365 Orchard Street, which here leads directly to the rear door of then Panther headquarters, 365 Orchard Street.

Q And there's also a driveway across the street, is there not, that belongs to 366 Orchard Street; that's shown in that picture?

A Well, I can't make that out, if it's a driveway or not.

- Q Well, look again, please.
- A Well, I did. To me, I can't say that's a driveway.
- Q Wouldn't you say that this is a driveway in here

(indicating)?

A No, I couldn't say that. It looks like a curb to me.

Q A curb with a slant to the asphalt?

MR. MARKLE: I'm going to object.

THE COURT: You are arguing with the witness

now, Mr. Garry. If he says he can't, he can't.

MR. GARRY: May we show this to the jury?

THE COURT: Sure.

(The above referred to exhibits were handed to the jury.)

MR. GARRY: If the Court please, I'd like to ask --

THE COURT: Wait, let the jury look at these.

All right, Mr. Garry.

MR. GARRY: Thank you, your Honor.

BY MR. GARRY:

- Q You testified yesterday that you remained there for ten minutes, is that right?
 - A At what time you referring to?
- Q The time that you arrived there at 366 vicinity of Orchard Street.
 - A You're referring to approximately 11:20 P.M.?
 - Q Yes.
 - A Yes, that time, yes, approximately ten minutes.

Q Well, is there anything in your note that says you stayed there at all?

MR. MARKLE: Well, I'm going to object to that, if the Court please. This is his exhibit.

THE COURT: Overruled.

MR. MARKLE: Might I have an exception, your Honor?

THE COURT: Exception noted.

BY MR. GARRY:

- Q Those are your notes, aren't they, sir?
- A Yes, my notes refresh my memory as to --
- Q My question is --
- A -- as to being there and how long I stayed there.
- Q My question was, sir, and I think you understood me --
- A Yes.
- Q -- where is there anything in your notes that says that you stayed there ten minutes, or at all?
 - A Well, it reminds me that I was there, and I --
 - Q My question --

THE COURT: Mr. Witness, what he wants to know:
Is there anything in your notes, any notation as to
how long you stayed there?

A There's no indication of time.

BY MR. GARRY:

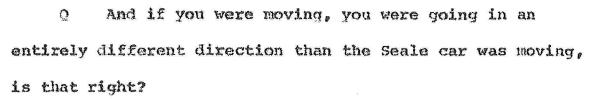
Q Now, by the way, how did you get there from -- strike

that. When you noticed Nr. Seale getting into an automobile at 11:15 in front of Battell Chapel -- you noticed him doing that, did you not?

- A Yes.
- Q Where was your vehicle at that time?
- A In the vicinity of Elm and College.
- Q Well, were you on the same street as Mr. Seale was?
- A Yes, close proximity; at the intersection there.
- Q And were you headed the same direction?
- A I don't think so, no.
- Q Well, tell us which direction you were headed?
- A I believe the New York car was headed south, and we were headed east at the intersection.
- Q All right. Now, how did you go to -- strike that.

 Had the Seale automobile started moving before your automobile moved?
- A You're asking me if the Seale auto was moving before I started to move?
 - Q Yes.
 - A I don't recall it moving.
 - Q You just saw Mr. Seale go into the automobile?
 - A Yes.
- Q And does it say you saw Mr. Seale go in an automobile in your notes?
 - A Does it say exactly what you just asked me?

- Q Yes.
- A No, not exactly, no.
- Q All right. Where didyou go from where you were at the vicinity of Elm and -- didn't you tell us yesterday that the Seale car drove off while you were still there?
 - A Well, I was made aware that it drove --
- Q My question was, didn't you tell me yesterday under oath, to this Court and jury, that the Seale car drove off while you were there?
 - A Well, I'm saying I was made aware that it drove off.
 - Q Did you tell us that yesterday?
 - A Probably so, yes.
 - Q Was it the truth?
 - A Naturally it was the truty.
 - Q That he drove off while you were still there?
 - A No, I was moving.



A Well, it's a large intersection in that area of Elm and College.

- O And you didn't leave until the Seale car was moving forward, is that right?
- A I was made aware that it was occupied and moving, yes.
 - Q How did you get to 366 Orchard Street?
 - A I was chauffeured there in a car; driven there.
 - Q What route did you take?
 - A I don't remember the exact route.
 - Q You don't remember at all?
- A No. I know the general area, but I don't remember exactly what streets we took to get to that location.
- O Well, the way Mr. Seale's car would go would be the shortest way to get to Orchard Street, would it not?
- A If he arrived there in approximately five, six or seven minutes, I would assume that he had taken the direct route.
- O That isn't true either, is it? It's not five, six or seven minutes, it was exactly five minutes, according to your own notes, which is an exhibit here?
 - A Well, those are the times I refer to, but I'm not

saying I can't be off a minute or two.

Q Well, you were keeping time with your watch, were you not?

- A Unless I said my watch can't be off a minute or two.
- Q Well, was your watch, when you were guided by it,
 -- you didn't lose any time in your watch from 11:15 to 11:20,
 did you?
- A No, but I'm sure you can tell by the exact times -- they are approximated, not precise.
 - Q Well, you have exact times down there, do you not?
- A I refer to 11:15, but I'm not saying it couldn't have been 11:16 or 17.
- Ω And why would you put down 11:15 when you are keeping track of your log?
- A It's easier to deal with the quarter hour on the hour, that's why.
 - Q Quarter hour on the hour?
 - A Sure.
- Q Then why did you put down 7:10 instead of 7:15 in one of your notes? (Indicating)
 - A I was dealing with the closest time.
 - Q Why did you put down 5:20 instead of 5:15 or 5:30?
 - A I was dealing with the closest time.
- Q And the closest time was five minutes after 5:00, as you have it, and 11:20, --

- A 11:20 -- I put that down. That's approximately the time that the car arrived.
- Q Again, how did you get there? What route did you take?
 - A I don't recall the exact route.
- Q As a matter of fact, the way you were driving, you were driving east to get to 366 Orchard Street, would take you twice as long to get there as it would the Seale automobile to get to 365 Orchard Street, isn't that correct?
 - A No, I couldn't say that.
 - O Time and a half?
 - A No.
 - Q You know this town a lot better than I do, sir.
 - A Yes.
- Q Is it a fact that the way the Seale automobile was parked, that is the shortest distance to get to 365 Orchard Street?
- A No, it's very debatable. I can think of two direct routes, one would be Whalley to Orchard, and one would be Chapel to Orchard.
 - Q Which one did you take?
- A I remember coming in from the parking side of the street, so I assume I came in from Edgewood Avenue way.
- Q How many blocks would that be from where you were parked originally at 11:15?

- A Ten or twelve blocks.
- And the other way, it's less than ten blocks, isn't it?
- A I don't know if it's less than ten blocks. I would say "No." Besides, blocks don't mean too much.

 You have traffic signals and stop signs and one-way streets.
- You would have traffic signals, too, the way you went, would you not?
 - A That's right.
 - Ω How many traffic signals did you cross --
 - A I don't recall.
 - Q -- to get to Orchard Street?
- A I don't recall. At the time, if I was on a police surveillance or observation, the traffic signals wouldn't heed me.
 - Q You'd go right through them?
 - A I would.
 - Q Did you?
 - A I might have,
 - Q Did you?
 - A I don't recall.
- Q Wouldn't you be causing attention to yourself by going through a signal?
 - A Would I be causing attention?
 - Q Yes.

- A I don't know if I caused any attention or not.
- O I say, wouldn't you be?
- A Might be.
- O And you were trying to keep it quiet that you had anybody under surveillance, that's what you told Mr. Markle when you testified under oath in the McLucas trial?
- A Well, "Keep it quiet," I don't quite understand that terminology.

asked you the question, "What is a spot surveillance?" you said, "Pardon me?" Did you not, and you said.— The question was asked by Mr. Markle, "Explain to the ladies and gentlemen and the Court what a spot surveillance is." "It a soving surveillance. Basically you use a spot surveillance because you don't want to be detected. You don't want to stay in one place too long. You want to change the general appearance of the way you operate your vehicle. You want to change operators. It's what we call hit-and-run. We base it on wehicles."

(Indicating)

You said that under oath, did you agt?

A May I see it?

MR. MARKLE: I object.

What is the difference --

THE COURT: Overruled.

THE WITNESS: Yes, I said this at the McLucas trial.

BY MR. GARRY:

Q And it's your testimony, is it, that you spent ten minutes -- strike that.

Do you have anything in your notes regarding the incident at 11:20 P.M. on May 19, 1969, as to how many people were in the automobile that you say Mr. Seals got out of and how many people left the automobile?

A You're asking me how many people exited from the automobile?

THE COURT: No. No. No.

BY MR. GARRY:

Q How many people were there --

THE COURT: No. No.

Read the question. Read the question, and get that exhibit over here so he can answer it for you.

Read it, Mr. Reporter.

MR. GARRY: He's got the exhibit.

THE COURT: Do you have the notes there?

THE WITNESS: Yes.

THE COURT: All right, read it, Mr. Reporter.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: My notes don't reflect any numbers.

BY MR. GARRY:

- Q Beg your pardon?
- A My notes don't reflect that information.
- Q In other words, your notes don't show that there was -- as to how many people were in the automobile or how many people got out?
 - A That's correct.

- Q And your notes don't also show whether there were people sitting in that automobile all the time you were sitting, allegedly sitting, in the automobile across the street?
 - A That's correct.
- Q Did you see Mr. David Brothers at 11:20 in that automobile?
 - A I don't recall seeing him.
- Q As a matter of fact, he was in that automobile, wasn't he, you since found out?
- A Well, there was information that he had been in that automobile. About that particular time, I don't know.
- Q Isn't it a fact that Mr. David Brothers was in that automobile all during the time that you say that you were sitting some ten or fifteen feet away from that automobile?

MR. MARKLE: I object to that.

He just answered that, your Honor.

THE COURT: I thought he said he didn't know.

MR. GARRY: I'm not quite sure what he said.

THE COURT: Do you want it read back?

MR. GARRY: Yes.

THE COURT: Would you read back two questions and his answers back, Mr. Reporter.

(The last three questions by Mr. Garry of the witness, and answers of the witness, were read by

the court reporter.)

THE COURT: I'll let it be answered.

THE WITNESS: I don't know if he was in that automobile all the time I was there.

3-3 BY MR. GARRY:

Q Well, isn't it a fact, sir, that in your spot checking and spot surveillance, all you were interested in, once you had determined the automobile and the occupants generally, is to find out where those automobiles were, isn't that right! Isn't that what you were doing in your spot surveillance?

I don't understand the question at all.

About the vehicle?

MR. GARRY: Can we have that question read?

THE COURT: It may be read.

(The last question by Mr. Garry of the witness was read by the court reporter.)

THE WITNESS: Well, that was part of it. We were concerned about the general activity and any ramifications that the Seale arrival might have on the City of New Haven.

BY MR. GARRY:

Q And you wanted to know where the automobile was that brought him there, that he was transported in, isn't that correct?

A Being more precise, I wanted to know where Bobby Seale was.

Q Now, you have testified that the next entry after 11:20 is at 12:40?

- A I believe that's right, sir. Yes.
- Q And that was 127 Hurlburt Street?
- A Yes.
- Q And all you did at that time, you observed the New York automobile being in front of those premises, isn't that right?
- A Well, there was something else. I did observe the auto, yes.
 - Q That's all you saw there, was that automobile, sir?
 - A No.
 - Q Isn't that right?
 - A That's not true.
- Q Please look in your notes and tell me what it says as to 12:40 A.M. on the 20th of May, 1969?
- A It reflects the New York auto being seen at 127 Hurlburt Street.
 - Q And that's all it says, isn't that right?
 - A That's right.
- Q And when you testified in the McLucas trial, that's all you said that that particular notation denoted, isn't that right?

A That's all I was asked about the car in the McLucas trial. That was Mr. Koskoff's examination, I believe.

Q Isn't it a fact that you were called on behalf of the defense by Mr. Koskoff, who was representing Mr. McLucas, and you became a defense witness at that time, and he asked you questions about what had happened, and what your notes depicted, isn't that correct?

A That's correct, sir.

Q And the only question that was asked you by Mr.

Markle, whom you later went to work for, was a question that

I just read a few minutes ago, isn't that correct?

A About the surveillance?

Q Yes.

A Yes, I believe that's all.

Q And Mr. Koskoff was examining you as to the details of what you saw and what you didn't see, and you were trying to tell him all you were doing was making a spot surveillance, isn't that correct?

MR. MARKLE: I'm going to object to that, if the Court please.

THE COURT: Overruled.

THE WITNESS: Mr. Koskoff was defending Mr. McLucas at the time, and he was concentrating on the activities of Mr. McLucas, if my memory recalls me right.

BY MR. GARRY:

- Q He also asked you about Bobby Seale, did he not?
- A He did.
- Q He had Mr. Seale as a witness in his case, did he not?
 - A He did.
- Q And it was after your testimony that Mr. Seale was the last witness in the McLucas trial, isn't that right?
- A I don't know if he was the last witness, but he did testify after me, that's right.
- Q And you had already testified before Mr. Seale testified, is that correct?
 - A I believe that's correct, yes.
- Q And the only question that Mr. Markle asked you is the question I already referred to, is that correct?
 - A I would say that's correct, too.
- Q And you made it very clear at that time, in your answer to Mr. Markle, --

THE COURT: Here's the transcript up here, Mr. Garry.

MR. GARRY: Oh.

THE WITNESS: Right here. (Indicating)

BY MR. GARRY:

Q And you made it very clear at that time, when you told Mr. Markle under oath, 'We base it on vehicles," your

spot checking, your hit-and-run, which you were referring to, "We base it on vehicles," you said that, did you not? (Indicating)

A Yes.

- Q And it's also true that in your notes of 12:40, all you referred to is seeing an automobile there?
 - A That's correct.
- Q And it's also true in your entire testimony in the McLucas trial, there is not one single word of your seeing anyone other than what you have testified here today -- strike that.

I'll start over again, okay?
THE COURT: Go shead.

BY MR. GARRY:

Q Isn't it true that in your entire testimony in the McLucas case, that you did not mention that you saw anybody at 127 Hurlburt Street at 12:40 A.M. on the 20th of May, 1969?

MR. MARKIE: I'm going to object, unless it was shown he was asked, your Honor.

Now, that's a whole different trial, and Mr. Koskoff had different purposes in mind.

THE COURT: The witness can answer it.

You can take it up on redirect, if you think you need to.

THE WITNESS: I don't believe I was asked.

BY MR. GARRY:

Q Why don't you answer my questions instead of taking a trip?

THE COURT: I think the answer is responsive.

I think it s responsive, Mr. Garry.

BY MR. GARRY:

Q Well, is it a fact that there isn't one single word in that entire transcript about your seeing any person or persons at 127 Hurlburt Street at 12:40 A.M. on the 20th of May, 1969?

A I would say that's true, there is not a word regarding that.

Q All right. Now, would you tell me, since your notes don't reflect it, did you see anybody at 12:40 at 127 Hurlburt Street?

A Yes. I saw the same composition of people, that I mentioned before, on the steps at 127 Hurlburt Street.

Q Why isn't that in your notes?

A Well, notes are just basically kept to refresh your memory. That's what they do to me.

Q Isn't it true that in your notes you say the Seale party entered and Seale party left?

A That's right.

Q Isn't that correct?

A That's right.

Q Why did you leave it out here?

A No particular reason.

Q This is manufactured testimony at this point, isn't it?

A No. not at all.

Q You never, at any time, all the time that you were on the witness stand in the McLucas case, said that you saw anybody at that time --

MR. MARKLE: I'm going to object.

BY MR. GARRY:

Q -- in the automobile?

MR. MARKLE: He covered it.

THE COURT: You brought that up before, and it's been covered, Mr. Garry.

Sustain the objection.

BY MR. GARRY:

Q And it's also true, is it not, under oath, you denied ever seeing Mr. Landon Williams from 9:15 P.M. on the 19th of May, 1969, until 5:20 A.M. on the 20th day of May, 1969; you denied ever seeing Landon Williams during that period of time, in the McLucas case?

A I recall seeing him on several occasions, and he wasn't known at the time, so that's probably the reason for a little bit of confusion here. He wasn't identified at that time. I told you that.

- Q Can't you answer my question?
- A I have.

THE COURT: I think it's responsive, Mr. Garry.
You can ask a further one, if you care to.

MR. GARRY: May I hear my question, your Honor?

THE COURT: The question and answer may be read.

(The last question by Mr. Garry of the witness, and the answer of the witness, were read by the court reporter.)

BY MR. GARRY:

Q Did you see Mr. Landon Williams from 11:15 P.M., in front of the chapel, Battell Chapel, until 5:20 the next morning?

A 11:15 at Battell Chapel? That's when the speaking engagement broke up -- yes.

- Q I'm talking about your --
- A Yes, he was seen in that area. Yes.
- Q Did you see him between those two times, in between those two times, 11:15 P.M. until 5:20 the next morning?

A He was seen in the vicinity of Hurlburt Street and also Orchard Street.

- Q Did you see him?
- A Yes.
- Q But it's not in any of your notes, is that right?
- A Well, it refers to him. It makes reference to him.

 Like I say, the Seale party, and there is reference to 127

 Hurlburt Street. These notes refresh my memory. He was with

 Seale the entire time. He was acting as a bodyguard.

- Q Was be?
- A Yes.
- Q Did he have a gun in his possession?
- A I don't know, He might have,
- Q You didn't frisk him?
- A No, not at that time. He was frisking everybody else.
- Q Well, everybody was frisked, as they went into Battelk Chapel, is that right?
 - A By the Panthers, that's right.
- Q To see that no one came in with any firearms to cause any disturbance, isn't that right?
- A You'd have to ask them. I don't know why they searched them.
 - Q Well, that's what they were doing, isn't that right?
 - A I don't know.
- Q And they had a basket, and if anybody had any knives or any other things that might be potential weapons, they kept it in a basket and gave them a tag and the people would pick them up afterwards, is that right?
 - A Something along that line, a receipt basis, yes.



BY MR. GARRY:

Q Page 1573 of your testimony in the McLucas trial.

Begin right here where it says, "Seale's party arrived at

365 Orchard Street," down to the bottom of the page, the next
to last word, the last sentence.

(Transcript shown to witness.)

- A Yes.
- You gave those answers to those questions, did you not?

THE COURT: There is no question pending. BY MR. GARRY:

That were in the transcript?

THE COURT: What has that got to do with it?

Do you have a question you want to put to him?

Ask him if it refreshes his recollection or what?

BY MR. GARRY:

Ω Does it refresh your recollection that you did not see Mr. Landon Williams until 5:20 the next morning?

MR. MARKLE: I am going to object, if the Court please, and I am going to ask the Court to examine that page and see if there is any inconsistency in anything that he said.

MR. GARRY: I think there is an inconsistency and I don't want to be arguing about it.

THE COURT: He just finished telling you a minute



ago that Landon Williams was Seale's bodyguard and he was with Seale all the time that he saw him.

MR. GARRY: I don't have to accept what he said.

THE COURT: You do have to put a question to him and get an answer, and if you are not satisfied with the answer and you think there is an inconsistency in that transcript, show it to him and see if it refreshes his recollection. That's the way you do it.

BY MR. GARRY:

O Isn't it a fact that you said — the question was asked you, "So he wasn't seen entering the Panther headquarters at any time by the police after Bobby Seale's speech at Battell Chapel until 5:20 A. M. the next morning?" The answer, "I mentioned prior that there was a general reference made to him at 11:20 P. M." Isn't that what you —

MR. MARKLE: I will insist that he read the rest of the page.

THE COURT: Take it up on redirect.

MR. CARRY: I will take it up now.

THE COURT: Neither one of you are supposed to be reading anything. You are supposed to ask the witness to read it and see if it refreshes his recollection. That's not in evidence.

MR. GARRY: Since he has no objection, may I

read it?

THE COURT: Want him to read it?

MR. MARKLE: I have no objection.

THE COURT: Read the entire page, if both counsel agree.

How about you, Miss Roraback?

MISS RORABACK: I am not agreeing to anything.

THE COURT: She wants to look at it.

(Transcript shown to counsel.)

MR. GARRY: I will offer the entire testimony of this man and the cross-examination of his testimony in the Koskoff trial — I mean in the McLucas trial, not Koskoff.

MR. MARKLE: Both direct and cross?

MR. GARRY: The whole thing.

NR. MARKLE: Fine, I have no objection.

THE COURT: How about you, Hiss Roraback?

HISS RORABACK: No, your Honor. I would have it marked for identification but I would not offer it as an exhibit.

I have no objection to the reading of this page.

THE COURT: Let's get the page read first. Everyone agrees to that.

Go ahead, Mr. Garry.



"O And what time did you observe him leave or was he observed leaving?

"A The notes reflect a general reference to him leaving.

- "Q What time?
- "A At 11:15.
- *O Do you have any indication of where he went from there?
 - "A Not exactly, sir. It's a general reference.
- "Q Well, when was the next time he was sighted and where?
- "A That was at 5:20 A. N. at Panther headquarters.
- "Q So he wasn't seen entering the Panther headquarters at any time by the police after Bobby Seale's speech at Battell Chapel until 5:20 A. M. the next morning?
- "A I mentioned prior that there was a general reference made tohim at 11:20 P. M.
 - "O Where?
 - "A 365 Orchard Street.
 - "Q What do you mean by 'general reference'?
- "A The reference is that Seale's party arrived at 365 Orchard Street.

"Q Seale's party arrived at 365 Orchard Street.

There is no reference to Landon Williams having arrived there with Bobby Seale that night?

"A Not by name, no, sir.

"O The next time you observed him actually was 5:25, is it, the next morning, approximately, entering 365 Orchard Street?

"THE COURT: 5:20.

"O 5:20?

"A 5:20.

"Q Of the next morning, is that it?

"A Yes, sir."

THE COURT: Now, you offer the entire transcript?

MR. GARRY: Yes.

THE COURT: Miss Roraback objects.

I am going to sustain the objection.

BY MR. GARRY:

And it's true, is it not, that the first time you ever observed Landon Williams was at Battell Chapel at approximately 9:45 P. M.?

MR. MARKLE: I will object, if the Court please. We have been over this.

THE COURT: No, we haven't.

MR. MARKLE: May I have an exception.

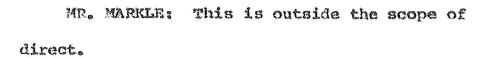
THE COURT: Exception may be noted.

BY MR. GARRY:

Q Page 1572.

(Transcript shown to witness.)

- A Yes, I remember saying that.
- Q The next time you observed Mr. Landon Williams from the time of 5:20 A. M. on the 20th of May, 1969, was almost two days later, wasn't it?
 - A Two days later -- 5/21 you are referring to?
- Q At 5:20 in the morning on the 20th you saw him, you saw Mr. Landon Williams, did you not?
- A Yes, that was just before Mr. Seale left the city, right.
- Q Right. And the next time you saw him after that, that's Mr. Landon Williams, was two days later, is that right?
 - A That would be the 22nd?
 - Q Yes.



THE COURT: Overruled.

MR. MARKLE: May I have an exception, your Honor.

THE COURT: Exception may be noted.

THE WITNESS: Yes, there was some time in that period I saw him. I believe it was the 21st, though, Mr. Garry, not the 22nd.

BY MR. GARRY:

- Q It was on the 21st you saw Mr. Landon Williams at 2:20 A. M.?
 - A That's correct.
 - Q. At 127 Hurlburt Street, is that right?
 - A Yes.
- O So from the time of 5:20 in the morning on the 20th until 2:20 A. M. the following day, on the 21st, you hadn't seen Mr. Landon Williams?
 - A From 5:20 until 2:20 the 21st.
 - Q And you saw him at that time on Hurlburt Street?
 - A That's correct.
- Q And you never had any specific identification of Mr. Rory Hithe at any time, did you?
 - A During the surveillance?
 - Q Yes.



- A There was no identification of Rory Hithe, no.
- Q And you have no record of seeing Mr. Warren Kimbro -- strike that.

The only time you saw Mr. Warren Kimbro in your spot check was on the 19th at 2:50 P. M., isn't that right, and then again at 9:45 at Battell Chapel, is that right?

A Well, there is 2:50, 9:45. At 365 -- that's right. 5:00 P. M. on the 20th, there is reference to him.

- Q That's correct, is it not?
- A Yes.
- Q You have no record of seeing Mr. Warren Kimbro at any other time?
 - A There is no record of that, no.
- Now, when you arrived at the vicinity of 366 Orchard Street at the hour of 11:20, was there quite a bit of activity of people going in and out of that place?

MR. MARKLE: I will object, if the Court please. We have already covered it.

THE COURT: Overruled.

MR. GARRY: I haven't touched it.

THE COURT: I overruled the objection. You

won. Why do you have to comment?

MR. GARRY: I guess a person never knows when they are ahead.

THE COURT: All right.

THE WITHESS: There was activity there, yes,

sir.

BY MR. GARRY:

Q There were men and women going in and out of the premises during that entire time?

A Well, I don't know about the entire time. There was general activity.

- O I am talking about the entire time that you say you were there?
 - A There was activity there, yes.
- O How many people went in and out of that archway during the period of time that you say you were sitting across the street, somewhere in the vicinity of 366 Orchard Street?
- A I'd say maybe a dozen or fifteen, in that period of time.
 - 0 50?
 - A 15.
 - O How about 50?
 - A I said a dozen or 15.
- Q And describe the kind of persons that went in and out.
 - A Mostly black persons.
 - O Any whites?
 - A I don't recall seeing any whites.
 - O White person ever went in that archway during the

time that you were watching?

MR. MARKLE: I object. He didn't say that.

He said he doesn't --

THE COURT: I will overrule the objection.

THE MITNESS: I don't recall seeing any white persons.

BY MR. GARRY:

- Q And you say there were three or four automobiles parked on the wrong side of the street, is that right?
 - A Yes, sir.
- O How many persons did you see sitting in there, in those automobiles, during the time you say you were watching?
- A I don't recall seeing people sitting in the automobiles. I wasn't looking that close at the contents of the interior of the automobiles.
- O During the period of time that you say you were sitting there watching, did you see any of those three or four automobiles drive away?
 - A They might have. I don't recall.
 - Q You don't have any notes, do you, on that?
- A I was preoccupied with the movements of Bobby Seale at the time.
- Q Mr. Seale, you said, had already disappared, is that right?
 - A Is that what I said? That he disappeared?

- Q Disappeared from your view, had he not?
- A You are talking about after he entered the house now?
- O I am talking about after you say he left the automobile.
 - A He is inside the house now?
- Ω I don*t know where he is. I am asking you.

 He had disappeared from your view, isn*t that right?
 - A Right, he was inside the house.
- O You can't see the inside of the house from where you were sitting in that area of the vicinity of 366 Orchard Street, can you?
 - A Mr. Garry, is it a fair assumption -
 MR. MARKLE: I object. He is arguing with the

 witness.

THE COURT: You are arguing with the witness. Let's move along.

MR. GARRY: He started to say, "Is it a fair assumption..." I want to know what his answer was.

THE COURT: No, I will sustain the objection to the question.

Q It's true, is it not, that Mr. Koskoff asked you the question, and indicated here, that "You next sighted the automobile that Mr. Seale was in st 12:40 A.M." -- just sighted that automobile; you didn't say about anybody being in the automobile, did you?

A Mr. Koskoff asked me if I sighted the automobile?

And I was responsive to that question.

Q What did you say?

MR. MARKLE: May we have the page?

MR. GARRY: Page 1563.

A I said, "I sighted the automobile."

Q Well, he asked you, did he not, "Now long was he in there" -- referring to 365 Orchard Street --

MR. MARKLE: I'm going to object to the use of the transcript, your Honor. He has no lapse of recall and I, again, stress it.

THE COURT: It's about time. If you want to put a question to him, put it to him and get an answer. If you are not satisfied with it, and you think the transcript says something else, you can show it to him and ask him to -- if he wants to refresh his recollection.

And I told you this about three times. . It's about time your lawyers obeyed the rules.

MR. GARRY: Well, we try to, your Honor.

THE COURT: All right, let's go.

BY MR. GARRY:

Q Isn't it true that Mr. Koskoff asked you the question in the previous trial where you were a witness, "How long did Mr. Seale remain in the premises" -- he asked that -- "in the area of 365 Orchard Street?" And it is true, is it not, that you said you didn't know, isn't that correct?

A That's right.

MR. MARKLE: I'm going to -- all right.

Q And you next said to him, and the next question was, "When did you next sight the automobile?" And you said, you next sighted the automobile at "12:40, at 127 Hurlburt Street," isn't that right?

A That's right.

MR. MARKLE: I'm going to object. We have been all over this.

THE COURT: Overruled.

BY MR. GARRY:

Q What were you doing between the time of 12:40, or 12:20 P.M. on the 19th of May, 1969, when you said that you were in the vicinity of 366 Orchard Street, what were you doing between that time and 12:40 A.M. at 127 Hurlburt Street, the following morning?

MR. MARKLE: Your Honor, I think he's referring to "P.M." when he means "A.M."

THE COURT: Read the question.

(The court reporter complied.)

MR. MARKIE: I'm going to object to that, if the Court please.

MR. GARRY: I don't see anything wrong.

THE COURT: You've got your "P.M.'s" and "A.M.'s" straight there? You're satisfied with them?

MR. GARRY: "12:20 P.M." and "12:40 A.M."

THE COURT: "12:20 P.M." on the 19th, that's twenty minutes past noon on the 19th? Is that what you want?

MR. GARRY: Twenty minutes past eleven, Judge.

THE COURT: "12:20," did you say?

MR. GARRY: No, "11:20."

THE COURT: "11:20"? I thought you used --

THE WITNESS: That's correct, your Honor. The record reveals that.

MR. GARRY: Can we have that question read again?

(The court reporter complied.)

THE COURT: Do you want to rephrase it?

MR. GARRY: I'll restate it.

BY MR. GARRY:

Q You've testified that 11:20 P.M. on the 19th you

were in the vicinity of 366 Orchard Street, right?

- A Yes.
- Q And you have also testified that at 12:40 A.M., right after midnight, on the 20th, you sighted the automobile, the New York automobile at 127 Hurlburt Street?
 - A Right.
 - Q What were you doing in between that time?
- A Again, working with my fellow officers on the surveillance, apprising them of the situation, relocating from time to time, further instructions; things along that nature, police work.
 - Q Did you see Mr. Kimbro during that period of time?
 - A Between 11:30 and 12:40?
 - Q Yes.
 - A I don't recall seeing him.
- Q When you were at the premises at 12:40 A.M., on the 20th, 127 Hurlburt Street, how many automobiles did you see in front of 127 Hurlburt Street?
- A Oh, there was numerous autos parked on the street.

 It's a residential neighborhood.
- Q Did you see any automobiles that you had under surveillance at any time --
 - A Yes.
 - Q -- other than the New York automobile?
 - A No, that's the only one I have notes of. I don't

recall seeing any others.

Q Did you see Mr. Kimbro go in and out of the premises at or about 12:40 A.M. on the 20th of May, 1969?

A No. sir.

THE COURT: I think perhaps this is a good time to take our morning recess.

(Whereupon, the jury was excused at 11:30 A.M.)



(The court reconvened at 11:50 A.M.)

(The witness resumed the witness stand.)

THE COURT: All set, counsel?

MR. MARKLE: Yes, sir.

THE COURT: Call the jury.

(The jury entered the courtroom.)

THE COURT: All right, Mr. Garry?

MR. GARRY: If the Court please, at this time I'm going to offer the testimony that this witness gave, and the cross examination, in the McLucas case. I understand that the prosecution has no objection.

As far as Miss Roraback is concerned, she tells me she just doesn't want it to be in her case; she has no objection other than that.

I offered the other, that was the same reason we had in the other offer, and I'm going to offer both again. I'm going to renew my offer for both.

THE COURT: The entire testimony?

MR. MARKLE: Of Mr. Pastore, and Mr. --

THE COURT: The direct and cross?

MR.MARKLE: -- and Mr. Seale. Direct and cross, yes, sir.

THE COURT: Wait a minute, now. We are talking

about Mr. Pastore's.

MR. MARKLE: Well, I don't see where it cuts one way and not the other. The same offer was made.

THE COURT: Mr. Markle, an offer has been made concerning the gross examination of this witness in the McLucas case.

Now, I take it what you are suggesting --

MR. GARRY: And the direct, too.

THE COURT: You're offering the entire testimony?

HR. GAPRY: The entire testimony.

THE COURT: Direct and cross?

MR. GARRY: Yes.

MR. MARKLE: I'm going to object to it.

THE COURT: You're going to object?

MR. MARKLE: Yes, sir.

THE COURT: All right. I'll sustain the objection.

MR. GARRY: If your Honor please, I take an exception to your Honor's ruling and --

THE COURT: Exception may be noted.

MR. GARRY: -- and so that the record will be protected, I want to offer for identification at this time the entire testimony, the direct, and the cross and the redirect --

THE COURT: It may be marked for identification.

MR. GARRY: -- of this witness in the previous trial of McLucas.

THE COURT: That's the entire thing, Mr. Garry?

MR. GARRY: Yes. It's from "A" to "Z."

THE CLERK: "17." Miss Roraback, both cases?

MISS RORABACK: No, no.

THE COURT: No, that's only in the Scale case.

(The document referred to was marked as DEFENDANT SEALE'S EXHIBIT 17 for IDENTIFICATION.)
BY MR. GARRY:

Q Isn't it true that Mr. Koskoff asked you the question in the previous time as to the time that you had seen Mr. Seale and Mr. Landon, and you said that, that you had not seen Mr. Landon or Mr. Seale from the time of 11:20 P. M. until 5:20 the next morning?

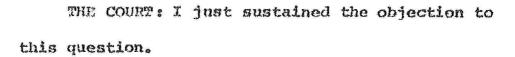
MR. MARKLE: I'm going to object, if the Court please, we have been over this, we have been over this two times this morning.

THE COURT: I think you just finished with that, just before we recessed.

MR. GARRY: I think if your Honor hears my question, I think you'll see that I didn't.

THE COURT: I'll sustain the objection.

MR. GARRY: If your Honor please, at Page 1573, which was read, it leaves the matter unfinished --



MR. GARRY: I understand.

THE COURT: Put your next question.

MR. GARRY: I understand, but this is a different matter.

THE COURT: Go ahead.

MR. GARRY: I'm pointing out to the Court that we read 1573 by stipulation of counsel, and had no objection to reading it. We got down to the last line, and the subject matter doesn't stop until the bottom of Page 1574. I ask leave --

THE COURT: I don't know whether it does, or doesn't. That's not in evidence.

MR. GARRY: I understand that. But I'm just trying to say that at this time, I'd like to continue with finishing the thought that we had.

THE COURT: You mean, offer the next page, too?

Maybe Mr. Markle would agree, I don't know, ask him.

MR. MARKLE: I have no objection. There's no inconsistency, your Honor. I don't know what we are offering.

THE COURT: He wants to offer the following page. The number?

MR. GARRY: Page 1574.



MR. MARKLE: I have no objection to it. Let him read it.

MR. GARRY: May I read it?

THE COURT: It's not marked yet.

MR. GARRY: Oh. Can we take it out of the one for identification?

THE COURT: I don't think you better use that one.

If you're going to have an exhibit marked for identification, it's got to have everything in it.

That's already been marked, so use that one.

(Indicating) Can you take that out of it?

MR. GARRY: I can take it out of there, but it's got all kinds of things underscored, and everything else.

What we can do, your Honor, is take it out of there and we can make a Xerox and put it back in during the noon hour.

THE COURT: You'll take care of that, Mr. Clerk?

THE CLERK: Yes, your Honor.

THE COURT: That would be Page 15--

MR. GARRY: -- 73 and 1574.

THE COURT: 1573 has already been marked?

MR. GARRY: Except, we did not.

THE CLERK: Your Honor, that was never marked.

THE COURT: Just read?

THE CLERK: Yes.

THE COURT: Why don't you do the same with this?

You've read 1573, now you want to read 1574.

And there's no objection of counsel?

MR. MARKLE: That's correct, your Honor.

MR. GARRY: So that there will be continuity,

I want to read both pages together.

THE COURT: Any objection, counsel?

MR. MARKLE: No, sir.

THE COURT: Miss Roraback?

MISS RORABACK: I'm sorry?

THE COURT: You want to look at 1574?

MISS RORABACK: No, your Honor.

THE COURT: No objection.

Read it.

"Q And what time did you observe him leave or was he observed leaving?

"A The notes reflect a general reference to him leaving.

"Q What time?

"A At 11:15.

"Q Do you have any indication of where he went from there?

"A Not exactly, sir. It's a general reference.

"Q Well, when was the next time he was sighted and where?

"A That was at 5:20 A.M. at Panther headquarters.

"Q So he wasn't seen entering the Panther headquarters at any time by the police after Bobby Seale's speech at Battell Chapel until 5:20 A.M. the next morning?

"A I mentioned prior that there was a general

reference made to him at 11:20 P.M.

"Q Where?

"A 365 Orchard Street.

"Q What do you mean by 'general reference'?

"A The reference is that Seale's party arrived at 365 Orchard Street.

"Q Seale's party arrived at 365 Orchard
Street. There is no reference to Landon Williams
having arrived there with Bobby Seale that night?

"A Not by name, no sir.

"Q The next time you observed him actually was at 5:25, is it, the next morning, approximately, entering 365 Orchard Street?

"THE COURT: 5:20.

"Q 5:20?

"A 5:20.

"Q Of the next morning; is that it?

"A Yes, sir.

"Q Assuming he was part of the general party that entered the night before, what time did he leave the night before?

"A Leave where, sir?

"Q 365 Orchard Street. You said Seale's party was observed going in at 11:25, or whatever it was, that night and he was part of that party

although not by name.

"A Yes.

"Q What time do your records have him coming out of 365 Orchard Street that night?

"A We don't have him coming out.

"Q Did you observe him come out yourself?

"A I just said we don't have him coming out.

"Q When you went there what did you do, leave?

"A Yes, we spot checked, watching the motor vehicles, basically, and once the activity stops we move out.

"Q The next time you observed Landon Williams actually was the next morning when he was with Bobby Seale; is that right?

"A Yes, sir.

"Q What time was that again?

"A 5:20 A.M.

"Q That was at 365 Orchard Street?

"A Yes.

"Q He went into 365 Orchard Street?

"A Yes.

"Q When did he come out?

"A The notes don't indicate what time he came out.

"Q Did you ever see Landon Williams again

after that?

"A Yes, I saw him after that.

"Q Where was that?

"A The 21st, the New York car, at 2:20 A.M. was at 127 Hurlburt Street.

"Q The 21st? That would be Wednesday night?

"A Yes."

MR. GARRY: I have no further questions.

THE COURT: Mr. Markle?

MR. MARKLE: I have no questions, your Honor.

THE COURT: Miss Roraback?

You may step down.

MR. MARKLE: The State rests, your Honor.

THE COURT: Miss Roraback.

MISS RORABACK: If your Honor please, I believe there will be a number of motions to be made outside of the presence of the jury.

THE COURT: You are excused.

(The jury was excused at 12:02 P.M.)

MISS RORABACK: If your Honor please, I will be making a rather lengthy motion to strike and also a motion to dismiss at this time.

I would like to have an opportunity to prepare the arguments on both of those, and I would suggest, perhaps -- I gather we are not going to be in court on Friday, in any event -- that we start with those arguments on Tuesday morning.

THE COURT: Oh, no, I won't do that.

Can't you get shaped up by tomorrow morning?

MISS RORABACK: It involves going — the first of those motions is going to be more detailed than the second. The first one involves going through the transcript which, as your Honor now knows, goes to some 2000 pages or so, and I just wouldn't have the time before tomorrow morning to complete that.

THE COURT: How long will it take to argue motions?

MISS RORABACK: I would say maybe three bours,

your Honor.

THE COURT: How about 2:00 o'clock tomorrow?

Could you be ready by then?

What do you think, Mr. Garry?

MR. GARRY: Well, your Honor knows that I want to leave --

THE COURT: Well, you are going to be gone on Friday. You are tied up on Monday also in Federal Court.

What I was thinking is that we could hear motions between now and 4:00 o'clock Thursday. Then we can see where we are.

MISS RORABACK: I think it's crowding it.

THE COURT: I have a jury here and I have got to let them go Friday and then I will be letting them go on Tuesday also, if that's what you are suggesting.

MISS RORABACK: That's what I am suggesting.

THE COURT: What about you, Mr. Markle?

MR. MARKLE: I will be prepared to argue at 2:00 o'clock.

We are taking a chance with only one alternate and a long weekend.

If it hadn't been for Friday -- and I agree that it had been a long-time standing engagement --

we would have been going on Thursday and Friday, could have argued then.

It seems to me that this is something that counsel has to be cognizant of, and I feel we ought to go through with it tomorrow and give your Honor an opportunity to consider them, also.

MISS RORABACK: I think it is a question of having adequate time to prepare the arguments, to prepare the arguments in this case, and I think it is a rather important argument.

THE COURT: You have had the transcript. You have had day-to-day copy of it.

MISS RORABACK: I have had day-to-day copy, yes. I have tried to keep up with it. It is a very voluminous job, and it is very unfair to the defendant.

I was prepared to argue it Friday, but I think that I should have at least a day and a half to work at this.

THE COURT: Are you suggesting that we have arguments on Tuesday then?

MISS RORABACK: Yes.

THE COURT: That will be for them on Wednesday then.

MISS RORABACK: Tuesday at 2:00 o'clock.

MR. ROSEN: Your Honor, we could use the time to get ourselves set up for the defense, too.

THE COURT: I understand that.

I expect that it would be lined up, anyway, and I anticipated giving you all the time you needed, anyway.

Having that in mind, I will do it that way then.

All right, call the jury.

(The jury entered the courtroom at 12:06 P.M.)

THE COURT: Well, ladies and gentlemen, I told you that you wouldn't be sitting on Friday and I explained the reason, counsel had a commitment that he made, an engagement, a long time ago and I felt that it was such that he should be permitted to keep it.

But, now, the State has rested and counsel have some legal matters to take up before me, and they are entitled to prepare themselves on those legal matters and they have asked for some time and I am going to give it to them.

You are going to get a little vacation more than I had anticipated, but it is necessary, and I am sure you understand that when I tell you that it is necessary.

I am going to excuse you now until next
Wednesday morning at 10:00 o'clock. Counsel will
be busy tomorrow and I am not quite sure when we
will have arguments but, in any event, I see no
point in bringing you people in here next Tuesday
just to sit in there and twiddle your thumbs. I
am sure you have other things to do, so I am going
to excuse you until next Wednesday morning at 10:00
o'clock.

Now, that's a long period of time, and so I would stress again to stay away from all news broadcasts, radio broadcasts, television broadcasts of any kind concerning any of the matters that are related to this case or to the Panther Party or the personnel or officers. Stay away from any news stories concerning those subjects, either in newspapers or periodicals of any kind. It is most important that you do that, and I am sure that you all have followed my instructions concerning that.

Again, no discussions with anybody about the matter, and if anybody should pester you about it, why, just let me know.

And, finally, the State's case has been completed now and I don't know just what the situation will be between now and next Wednesday, but forget

all about it, and when you come in Wednesday we will see where we are, so just forget about it, put it in the back of your minds as to what you have heard.

I do hope it warms up. It would be much pleasanter if we had some sunshine rather than the weather we had the last few days during your time off. But, in any event, enjoy yourselves, I hope, and I will see you next Wednesday morning at 10:00 o'clock. Have a pleasant recess.

Now, concerning lunch today; anyone that cares to go to lunch, the sheriff is available here. If you care to not go to lunch, and you want to leave, you can do that, too. Anyone who wants to go with the sheriff, he is right here to take you.

You are excused.

(The jury was excused at 12:10 P.M.)

THE COURT: All right, counsel.

Now, of course, certain things depend on the outcome of the motions. Counsel understand that.

Be prepared for all eventualities so that we can move forward if things go a certain way. You understand what I am talking about.

Yes. Miss Roraback.

MISS RORABACK: I wonder if we might have a

conference with the clients at this time, have lunch with them.

THE COURT: Until what time?

MR. GARRY: About 1:30 -- 2:00 o'clock.

THE COURT: 2:00 o'clock. You will arrange lunch.

Clear the courtroom, Sheriff, so counsel can have a conference with their people.

(The court adjourned at 12:15 P.M.)

WITNESSES

Name Direct Cross Redirect Recross
NICHOLAS PASTORE 2258

EXHIBITS FOR THE DEFENSE

\underline{NO} .	DESCRIPTION	FOR IDENT.	IN EVID
	DEPENDANT GEALE'S EXHIBI	78	
11	Photograph	2262	2270
12	Photograph	2262	2270
13	Photograph	2262	2270
14	Photograph	2262	2270
15	Photograph	2268	2270
16	Photograph	2268	2270
17	Transcript of Pastore's Testimony in McLucas Trial	2318	
×	DEPENDANT HUGGINS" EXHI	BITS	,
7	Photograph	2262	
\$.	Photograph	2262	9
9	Photograph	2362	8
10	Photograph	2262	
11	Photograph	2268	
12	Photograph	2268	